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The American Political Science Review

VOL. XXIX FEBRUARY, 1935 NO. 1

DEMOCRACY IN TRANSITION*

WALTER J. SHEPARD
Ohio State University

I

Any civilization may be reduced to two factors, a system of institutions and a system of ideas. By institutions we merely mean collective behavior patterns, the ways in which a community carries on the innumerable activities of social life. The church, the market, the family, the learned society, the trade union, the university, are examples of institutions. We often attribute a personality to such behavior patterns, clothe them with the attributes of a personal will, mind, and purpose; but such attribution is sheer fiction, the product of a purely imaginative process. Institutions are merely behavior patterns—they are nothing else. Government is an institution or a set of institutions. Society achieves certain results through collective political action. The means that it uses are the behavior patterns which we call courts, legislative bodies, commissions, electorates, administration. We idealize these institutions collectively and personify them in the State. But this idealization is pure fancy. The State as a juristic or ideal person is the veriest fiction. It is real only as a collective name for governmental institutions.

A civilization is, however, something more than a complex of institutions; it always embodies a system of ideas, an ideology. Whether such ideologies have clearly come into the consciousness of the members of a community, whether they are only dimly and vaguely apprehended, whether they remain quite completely within the field of the sub-conscious, they constitute the counterpart, the reflex, the reciprocal, of the system of institutions. Institutions and ideologies are the warp and woof of the fabric of history.

* Presidential address delivered before the American Political Science Association at its thirtieth annual meeting, Chicago, Illinois, December 26–29, 1934.

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A study of either by itself is incomplete and misleading. Ideologies afford the explanation of institutions. Institutions give content and actuality to ideologies. Civilizations rise and fall, are transformed and reconstituted, but in every healthy and vigorous civilization the relationship between the institutional and the ideological factors is intimate and meaningful. Each is both cause and effect of the other. Sometimes the one, sometimes the other, appears to possess priority in the process of change and social evolution.

It is the primary function of ideologies to afford a scheme of values, a *Weltanschauung*, a criterion by which the rightness or wrongness, the goodness or badness, the utility or futility, of institutions may be judged. Ideologies embody fundamentally ethical norms, which serve as guides, determinants, and motivation of social conduct. As such, they rest ultimately upon faith. They are accepted without demonstration; they constitute the final and absolute postulates of life.

Some dominant idea which orders and controls an entire ideological system, which gives final meaning and purpose to the maze of institutional forms, and thus characterizes the entire social order, can usually be discovered in any great civilization. Thus the idea of the city state was the controlling concept of ancient Greece. Empire was the motivating idea of imperial Rome. The Middle Ages were the age of religious faith. The idea of the national state was the dominant idea of the fifteenth, sixteenth, and early seventeenth centuries. The later seventeenth and eighteenth centuries were the age of science, when science assumed to be the final end and goal of life. Toward the close of the eighteenth century, men turned their faces toward the idea of democracy as providing the scheme of ultimate values for life. These various dominant ideas have been, for the various civilizations which they inspired, teleological. They have not been conceived as instrumental, or as means to other ends. They have been accepted as ends in themselves. They have been clothed with the garb of finality. And as such, they have aroused in the masses of men an emotional response which has translated them beyond the limits of critical skepticism. As the supreme values of life, they have invoked a devotion that brooks no argument, that admits no exception, that entertains no doubt. They possess the compelling authority of a religious cult. Men have lived and died for these

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ideals. To them have been subordinated every interest, every right of the individual. They justify any extreme of cruelty, any excess of power. Against them no consideration of justice, no claim of morals, no judgment of value can be brought, for they are the final embodiment of justice, morality, and value. They are affected by only one influence, the shifting and changing pattern of institutions. They cannot transcend the force of human experience. If ideologies give meaning and purpose to institutions, if they exercise at times controlling influence in the development of institutions, they are themselves subject to modification and change from the institutional impact. The correspondence between ideologies and institutions is never exact. At times there may be an institutional, at times an ideological, lag.

Social revolutions are the mutation points in the evolutionary process, when institutional change has progressed so far that the old ideals no longer command general allegiance. Men's faith is undermined, doubts arise; the vision which has served to give meaning and purpose to life is dimmed; and "where there is no vision the people perish," or, according to the presumably more accurate rendering of the ancient scriptural passage, "where there is no vision the people break loose." Eventually new ideas emerge, they crystallize into systematic ideologies, they embody new schemes of value, they provide new orientations. The institutional pattern which had advanced beyond the point of vital correspondence with the old ideology now lags behind the new system of ideas. It must be brought into closer relationship. A rapid transformation of institutions takes place under the impelling force of the new dominant idea. This has been the course of social evolution in the past. We must expect the same process to operate in the future.

II

For more than a hundred and fifty years, the western world has lived under the spell of the democratic idea. To the men of the mid-eighteenth century it came as a glorious vision, promising a new heaven and a new earth. Democracies there had been in the past, but they were only institutional patterns. For the Greeks, democracy was merely a form of government to be compared and weighed, as such, against aristocracy and monarchy with reference to its value and usefulness in achieving the ideal of the city state. It was instrumental, not teleological, and Aristotle's judgment

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that the best form of government was polity, in which some element of each of the three primary forms existed, indicates that for him the question remained on the plane of relative values. But with the French doctrinaires of the eighteenth century, with the American revolutionists and with the English radicals, democracy became the end and goal of human existence.

This ideology of political democracy was one aspect of a new orientation; the other aspect was economic individualism. It is no mere coincidence that the Declaration of Independence and Adam Smith's *Wealth of Nations* appeared in the same year. Political democracy and economic individualism were products of the same intellectual and historical forces. They both represented revolt against the established order. They were both nourished in the same genial eighteenth-century climate of ideas. They both rested upon similar or identical fundamental postulates. The one posited a rational "economic man," who always bought in the cheapest market and sold in the dearest, and who, pursuing his enlightened self-interest, could be trusted, through the automatic process of natural law, to achieve the greatest possible good for the community. The other posited a rational "political man," who, likewise pursuing his enlightened self-interest, and also under the beneficent control of natural law, would, through the instrumentality of majority rule, achieve the greatest possible collective welfare. These two ideologies were not merely concurrent, they were closely interrelated. Indeed, they were merely two aspects of one fundamental idea. Economic individualism has been thoroughly discredited in recent years; its theoretical assumptions have crumbled under contemporary economic criticism. It is time that we should apply the same critical analysis to the doctrine of political democracy.

The ideals of political democracy and economic individualism have constituted the national faith of the American people from the time of Jefferson to our own day. They have embodied the supreme values of life. Democracy has been the dominant idea, and *laissez faire* has been accepted as its corollary. But the concept of democracy has also gathered to itself a wide array of ancillary doctrines quite outside the field of political or economic thought, doctrines of social equality, of educational philosophy, of religious practice, of ethical conduct. The result, in the generality and multiplicity of its meanings, is as good an example of a stereo-

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type as can be discovered. These various meanings of the term "democracy" have contributed to its glorification in the measure that they have blurred and dimmed the sharpness of its definition. They have, however, all derived from the original sense of the term, which was clearly and exclusively political. It is to this original sense that we, as political scientists, must return. And it is in this sense that the democratic ideal must be critically examined.

The classic formulation of the democratic doctrine is found in the immortal words of Thomas Jefferson:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights; That among these are Life, Liberty and the pursuit of Happiness, That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

This passage embodies the entire ideology of political democracy. Either explicitly or implicitly, it includes the various particular ideas that constitute the democratic ideal. There is the assumption of a rational world, a world in which each individual pursuing his own enlightened self-interest may be trusted to reach rational conclusions which serve as guides to his conduct. As the Swiss philosopher, Amiel, has said, "Democracy rests on the fiction that the majority has not only force but reason on its side, and possesses the wisdom necessary for action." There is also the concept of natural law and its corollary (explicitly stated) of natural rights—not a "natural law with variable content," but a absolute and rigid natural law and a definitely determinable and unchanging body of natural rights. There is the doctrine of human equality, not interpreted in the sense that all men are equal in the sight of God, or that every man should have an equal opportunity to the fullest self-realization, but in terms of an actual present equality of capacity to share in the basic process of government. There is the express assertion of the rights of life, liberty, and the pursuit of happiness. These rights must be interpreted against the background of the orthodox ideology of the national state of the eighteenth century, and the mounting protest against

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its outworn scheme of values. The Declaration implies a definite doctrine of individualism, a transference of ultimate values from the state to the individual. Liberty must be interpreted in the narrow and negative sense of mere freedom from restraint—the sense employed by John Stuart Mill—not in the positive sense given the term by T. H. Green. But it certainly includes the specific rights of freedom of speech, of the press, of assembly, of religion, and the several rights which under English law protect the individual accused of any crime and which secure to him a fair and impartial trial. The right to the pursuit of happiness embodies the hedonistic and individualistic philosophy of Hume later to be elaborated in Bentham's Utilitarianism.

The Declaration further sets forth the theories of social contract, of popular sovereignty, and of the right of revolution. It implies the doctrine of majority rule, and of the limitation of government to the narrowest police functions. The doctrine of universal suffrage is a fair conclusion, if not a corollary, from other principles stated or implied in Jefferson's pronouncement. On analysis, the democratic ideal is seen to incorporate a considerable range of ideas, most of which would be seriously questioned or modified, if not definitely discarded, by students of political science today, and would, indeed, make little appeal to the mass of American citizens; but some of which represent the most precious values won through a thousand years of political and social conflict.

The central doctrine in this democratic ideology is that of popular sovereignty, the theory that government rests upon "the consent of the governed." Just what did this mean to the democrats of the eighteenth century? Just what does it mean today? It was undoubtedly a reaction against the prevailing theory of monarchical sovereignty, and as such performed a useful purpose in achieving a new orientation. But the idea that government springs from and is dependent upon the will of the people cannot withstand the analysis of modern criticism. Who are "the people" who are assumed to constitute the ultimate source of political authority? Are they the entire mass of the population of a community? Or are they to be identified with the legally constituted electorate?

If the first be the accepted view, the "people" are a legally indeterminate and amorphous body, and the *volonte generale* is

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equivalent to public opinion, subject to all the influences of pressure groups and propaganda. We have learned much since the Age of Reason regarding the phenomena of social psychology. Graham Wallas, in his *Human Nature and Politics*, and Walter Lippman, in his *Public Opinion* and his *Phantom Public*, have opened a wide field of investigation which is now being actively cultivated by a younger group of political scientists. They have made us fully aware that the "political man" is a myth. Not reason alone, but sentiment, caprice, and passion are large elements in the composition of public opinion. The successful demagogue is frequently the perfect embodiment of democratic leadership. Government by the people is reduced to a system of techniques by which the uninstructed masses may be swayed, controlled, and used in the interest of self-serving politicians. We no longer believe that "the voice of the people is the voice of God."

If, however, we accept the alternative view that the people are equivalent to the electorate, we encounter the difficulty that this body, which is supposed to be above the law, since it is the ultimate source of law as well as government, is in fact determined both as to structure and function by the positive law of the state. The democratic dogma has never been institutionalized in the absolute legal supremacy of the electorate. Did Lincoln mean when he spoke of "government of the people, by the people, and for the people" merely "government of the voters, by the voters, and for the voters?" Are not the continuous changes in the history of the suffrage and in the functions of the electorate, the short-ballot movement, the proposals for proportional representation, the legal requirements for varying majorities to constitute valid action, the party-system itself, abundant proof that the electorate is not and cannot be accepted as the sovereign authority in the state?

The truth is that the concept "people," the central concept in democratic theory, is in the highest degree ambiguous. At times it is used as meaning the entire population of a community, and as such is surrounded with the mythical halo of sovereignty. It is conceived as a transcendental entity and clothed with all the appurtenances of a metaphysical person. At times it means merely the legally constituted body of voters, the electorate. An unconscious transition, not only in popular discussions but even in serious treatises on political science, is often made from the

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people as an assumed entity, the source of all political authority, the uncrowned sovereign of modern democracies, to the electorate, which clearly is only one of the organs of government, one of the instrumentalities which well, or passably, or mayhap very badly, performs certain governmental functions. This unconscious transition is in no small degree responsible for the uncritical persistence of the democratic stereotype in the popular mind. A good example of this muddy thinking is found in the presidential campaign of 1912, when Theodore Roosevelt made his appeal on the slogan, "Shall the people rule?" The answer to this question obviously being an affirmative, the platform conclusions were easily drawn that there should be a wide extension of electoral functions in terms of the initiative, the referendum, the recall, and the recall of judicial decisions. The electorate has its rôle to play in modern government. What that rôle is, as well as how the electorate should be constituted, what qualifications of age, residence, education, and interest should be prescribed, are matters of practical expediency to be determined by law in exactly the same fashion as the composition and functions of other organs of government. Is it not evident that the theory of popular sovereignty, the central idea of democratic ideology, cannot stand up under an objective critical analysis and must be frankly abandoned?

But we may approach the problem of democracy as a system of institutions, as well as a system of ideas. Government in the United States has been generally accepted as the most perfect exemplification of democracy. But in its actual practice our government has never been a perfect reflection of democratic theory. Democracy as idea and as institution have never been closely related in fact. One needs only refer to Dr. Beard's conclusive work, *An Economic Interpretation of the Constitution of the United States*, to recall how mixed were the interests, how various the motivations, that produced our fundamental law. The Constitution did not implement the Declaration of Independence. It reflected the political philosophy of Alexander Hamilton rather than that of Thomas Jefferson. It incorporated definite aristocratic and monarchical elements. The early state constitutions likewise departed widely from democratic doctrine in their limitations upon the suffrage, and in the privileged position which they secured to the wealthy and property-owning class. The institutional patterns lagged far behind the democratic ideology. If the Jeffersonian

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and Jacksonian revolutions brought these institutional patterns into closer correspondence with the democratic ideal in certain respects, particularly in the broadening of the suffrage, they eventually produced the spoils system, the domination of political rings and political bosses, the extensive corruption in politics, and finally the emergence of "the invisible government" of big business. The change which the industrial revolution and the development of modern technology have effected in the economic institutional pattern is a twice and thrice told tale. Though not so immediately apparent, these forces have wrought a similar and corresponding change in political institutions. The result is that government by the people, however interpreted, has been reduced to a mere shadow and semblance of its ideological counterpart.

The chasm between theory and practice perceptibly widened during the later decades of the nineteenth century, but the American people retained their faith in the ideal of democracy. This faith was, however, a pathetic example of "the substance of things looked for and the evidence of things not seen." Critics of democracy were indeed not lacking. Carlyle had thundered against it even before the turn of the century. Lecky and Maine had marshalled their arguments to prove its fatuousness and impracticability. Nietsche had assaulted its basic postulates. These were, however, voices from across the sea. In 1909, however, Henry Adams, scion of the purest stock of New England and offspring of presidents, announced "the degradation of the democratic dogma," but still to no avail. Our nation sublimely maintained its faith. Theodore Roosevelt, as we have seen, invoked the time-honored traditions and shibboleths of democracy in the campaign of 1912 under the slogan, "Shall the people rule," and even as late as the Great War, President Wilson could appeal to the American people "to make the world safe for democracy." The results of the war and the subsequent national experience have, however, made substantial breaches in the citadel of democratic faith. We have been impressed, more then we care to admit, with the practical failure of democratic government in Europe. The spread of fascism and the success of the communist experiment in Russia cannot be ignored. And finally the breakdown of the capitalistic system and the prolonged economic depression have aroused profound doubts in the popular mind regarding the basic tenets of the demo-

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cratic ideology. We are considerably disillusioned; we are becoming a nation of political skeptics.

III

"Where there is no vision, the people break loose." It behooves us to discover a new vision, a new faith that will give meaning and purpose to life. But any ideal, to make a real appeal to the American people, must not clash too violently with their historical experience or demand too complete a relinquishment of all the specific values which are a part of their social heritage. The ideal of democracy may have to be abandoned, but some of its constituent elements must surely be incorporated in the new faith. Social revolutions always embody much of the régime which they bring to an end. But there must be a new vision, a new faith, a new scheme of values.

Various winds of doctrine blow more or less tempestuously through the thought of the American people today. Communism constitutes the supreme menace to many timid souls. Its apparent success in Russia, its closely-knit organization, the clear cold logic of its economic and political philosophy, the definiteness of its aims and objectives, the ruthless methods that it employs, and its repudiation of all conventional moral restraints give it a driving force which should not be minimized. But it represents such a complete break with American tradition and American ideology that its achieving control in this country must appear quite outside the range of possibility. We ought, however, to recognize certain elements in communist philosophy and practice which must be included in any new system that we may achieve.

Fascism has made much more of an appeal to the American mind. If no general fascist organization has yet appeared in this country, there are many seething evidences of the beginnings of a widespread fascist movement. We have had our experience, not so many years ago, with the Ku Klux Klan. The smouldering embers of that organization may easily be again fanned into flame. We read of the activities of various groups which imitate, in their varicolored uniforms, the black and khaki shirts of Italy and Germany. But perhaps more significant than these is the spreading feeling among large classes of our people that the solution of our social and economic problems demands the appearance of a strong and unfettered leader. It is a matter of grave concern when the people

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of the great state of Louisiana surrender themselves completely to a political adventurer. We have had in the past numerous examples of the political boss who dominated the politics of a state. But these have always at least paid lip service to, and respected the forms of, democratic government. In Louisiana, we see a frank denial of democratic ideology and democratic institutions. Dictatorship stalks across the state naked and unashamed, and openly casts its covetous eye upon the White House. The rapid rise of the British fascist movement is evidence that even a long tradition of parliamentary government and democracy is not a complete safeguard against "the man on horseback." If we are to escape fascism in this country, it can only be by virtue of a thorough understanding of its purposes, its ideals, its methods, and the nature of its appeal, and a frank appropriation of many of its elements into the theory and practice of a new and vital orientation.

Socialism, as expressed and interpreted in the vivid, yet benign, personality of Norman Thomas, is no longer viewed as a menace by most American citizens. Too much of what he has for years been predicting has come true; too many of his diatribes against capitalism are now accepted commonplaces. So far as his program of action is concerned, we feel that, while perhaps we shall have to come to his proposal for a radical and immediate transition to a socialized economy, we are not yet ready to abandon the experiment of a reformed, regulated, and restricted capitalistic system.

The ideology of the New Deal is illogical, inconsistent, and turbid. Its program is a mass of undigested and contradictory experiments. No central purpose appears to govern its policy or its course of action. It veers first to the right, then to the left. It embodies in its personnel men of the most divergent views. If there is leadership, it is the leadership of mounting one's horse and dashing off in every direction at once. In all of this, it is truly representative of American public opinion. And yet it secures unprecedented majorities at elections. It commands the support of farmers, workingmen, the white-collared and professional classes, the small business men, the large business men, the great industrialists, the newspapers, and the bankers. But this is in no instance an unqualified or enthusiastic support. There is much criticism.

If we look beneath the surface, however, both with respect to

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official policy and administration and with respect to the seething ferment of public sentiment, we can discern certain fairly definite points of coagulation. These may perhaps, constitute the beginnings of the new ideology that we vaguely seek. In general, there is little insistence on the time-worn principles of our traditional faith. There is little mouthing of the old dogmas of democracy. There is an almost complete abandonment of the philosophy of *laissez faire*. Rather, there is the suggestion of new points of view, novel approaches to the problems of life, a fundamentally new scheme of values. But as yet there has certainly developed no definite ideology, no consistent body of principles, no elaborated *Weltanschauung*. Perhaps there may never evolve from these mere beginnings a new philosophy of life. Perhaps we must go through the scourge of a bloody revolution, or wander for a long period in the blind alleys of frustration and despair. We cannot be too hopeful. We are encompassed by many dangers and many difficulties. Deeply entrenched special and vested interests, widely prevalent blind prejudice, rigid and unbending institutional patterns, stand in the way of an intelligent and statesmanlike solution of our problems. That these problems will eventually be solved, and through the emergence of a new system of ideas, there can be no doubt. The question is whether or not we possess the necessary intelligence, and can sufficiently mobilize it, to accomplish the transition in an orderly fashion and without the high price of violent internal revolution or perhaps external war. It is no easy task that the American people and its government face.

Let us examine these embryonic elements in a possible new and dominant ideology. They are sufficiently distinguishable to have acquired, for lack of a better name, the general characterization of "the good life." The nodules of this emerging philosophy of life are discoverable in the increasing assertion, and in some instances in the general acceptance, of various individual rights never before clearly recognized. The right to creative work, to profitable and useful employment (something more than the mere right to a job) may be assigned the *first* place in this new charter of liberties. It has been proclaimed by the President; it is a central principal of national policy. The right to an adequate standard of living, measured by the productive capacity of the nation, and an equitable distribution of the national income, is a *second* basic right. The right of the worker, through collective bargaining with

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his fellows, and through other means, to a substantial share in the management of the industry to which he has devoted his labor and his life is a *third* right, hotly contested at the present moment, but apparently certain to be ultimately recognized. A *fourth* basic right is that to security—security against the hazards of unemployment, accident, illness, and old age. Not only is this right coming to be generally recognized, but the prospect of an immediate beginning toward its realization is seen in the legislation to be proposed to Congress and many of the state legislatures in their approaching sessions. The right to the best service that science can provide in the maintenance of health constitutes a *fifth* great right in the new *Magna Carta*. The people's health must not be left to the accident of individual fortune; its preservation must constitute a public obligation and its cost become a charge upon the public revenue. Here the new ideology encounters bitter opposition from the vested interest of the medical practitioners. A *sixth* great right is that to leisure and to its effective use. Under an economy of abundance, a radical reduction in the hours of toil makes possible a corresponding increase of leisure time, and the opportunity for its profitable employment becomes a social obligation. These six great rights certainly constitute something essentially novel in our national philosophy. They entirely escape the limits of the theory of political democracy.

There are other basic rights which have long been recognized as expressions or implications of the democratic doctrine, and which we may confidently expect will find their place, indeed be given even greater emphasis, in the new ideology. The guarantees of individual and personal rights in the first ten amendments to the Federal Constitution, and similar guarantees in the state constitutions, are specific expressions of the right to liberty and, as such, a definite constituent part of the democratic ideal. They did not, however, originate in the eighteenth century. They are the hard-won prize of centuries of political conflict between the English people and the Crown. They were merely absorbed into the democratic doctrine. They must remain a permanent part of our social heritage. The right to freedom of speech, freedom of the press, freedom of association, freedom of religion, and the several rights which guarantee to every individual accused of a crime the necessary protective procedures and a fair and impartial trial, must not only be fully preserved but strengthened.

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Here the new ideology must break sharply with both communism and fascism. Even more necessary under the philosophy of the good life than under that of democracy is the protection which these age-old rights afford.

There is one further right, that of education, which we must consider. This right was not a part of the original theory of democracy, though Jefferson, in his later years, conceived it as an important function of the State. Public education was indeed one of the first great violations of the strict theory of individualism, and as such was condemned by Herbert Spencer. But its rapid development in practice resulted in its incorporation in the democratic ideology, however inconsistent and illogical this may have been. It is a good example of the modification of an ideology by an institution. But the right to education has been viewed generally as ancillary and subordinate to other rights and to other social ends and purposes. It has been considered definitely an instrument, not an end in itself. It has been looked upon as a means to achieving democracy, as training for citizenship, even as a training for the individual to make a living, or at best a training for life. But if we seek to discover the essence of the philosophy of the good life, it is apparent that education becomes a central element, indeed, the central element, and an end in itself. No longer instrumental, but teleological, education occupies the dominant position in the scheme of values. It gives meaning and purpose to life. It affords orientation and direction to all social activities. It is, indeed, the faith and hope on which the new civilization must rest.

Such a conception of education is radically different from that of the past and present. Supported and fostered, not only by government, but by every other social agency, it must constitute the central purpose and goal of the nation. It must become a spiritual ideal, the ideal of unshackling every capacity and faculty of the individual, of completely emancipating the human spirit. Consider what this may mean in the transformation of social effort, in the complete shift in emphasis from material to spiritual values. The democratic ideal was formulated by Jefferson largely in terms of spiritual values, but it was linked from the beginning with a materialistic economic individualism. Perhaps that was inevitable in an age in which man's conquest of nature was thrust upon him as a primal duty. But nature and her illimitable resources have now been subdued and harnessed. We may at last ask ourselves,

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To what end? The accumulation of vast wealth cannot indefinitely be the end of life. The Marxian law of economic determinism may have controlled in an economy of scarcity; it cannot apply in an economy of abundance. We must make our fabulous wealth of farm and forge and factory, of mine and river and air, of laboratory, bank, business, and communication system, contribute to the liberation of human life. Education must no longer be viewed as the privilege alone of the child and the youth. It must be extended to include the entire population, and adapted to every individual.

Can we envisage the philosophy of the good life as centrally a philosophy of education, supported by a *Magna Carta* of rights such as we have outlined? If there is a possibility of this new vision becoming the guiding faith of our people, we can accept the confusion, the suffering, and the conflict of these present days as only the birth-pains of a new and better world.

The emerging system of political institutions must conform more or less closely to the new political ideology. It must be designed to realize and effectuate the ideals which constitute the national faith. We may expect, however, that political and economic institutions will be closely related in the social order of the future. The basic principle in the new economic thought is a planned economy. It is possible that this may be achieved largely without the assistance of government, that industry may set its house in order, and through a system of self-regulation and restraints avoid the necessity of rigorous and detailed governmental control. This is a possibility, not a probability. Whatever the form of industrial regulation and control, the plan must be a national one, and as such emanate, at least in its general outlines, from government. And government must, under any circumstances, possess a function of investigation, inspection, and finally enforcement.

Certain major fundamental changes in government seem obviously necessary if the ideal of the good life be the guiding motivation and if the assumption of a planned economy be accepted. We must anticipate a much more highly centralized administrative organization than has ever hitherto been known in this country. Already the President of the United States has gathered to himself unprecedented powers. These have been viewed in general as arising out of, and limited by, the emergency; but they must be indefinitely continued if we are to persist in the ex-

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periment of social control over business and industry which has already begun. The character of the presidential office is undergoing radical modification. Not only are there developing numerous administrative agencies which find their origin and support in the office of the President, and which are undertaking functions never before conceived of as legitimate expressions of the constitutional powers vested in the Chief Executive, but in an unprecedented fashion the President is assuming the policy-forming function of government. Not merely through his influence over Congress in securing statutory legislation, but in numerous ways quite outside the scope of formal law, he is setting the pattern and determining the outline of national policy. It is becoming increasingly obvious that the function of Congress is no longer that of a supreme law-making body, and we may well speculate whether the forces at work must not eventually reduce it to the innocuous position of a registering or ratifying instrument with regard to legislation. On the other hand, the possibility exists of a great extension of Congressional influence and power in the direction of investigation, review, inquisition, and the enforcement of responsibility. If this transition appears at all likely, we may raise the question whether the present constitution and form of Congress will not require radical change. Certainly under the new order the bicameral system would seem to have less reason than it has had in the past. With the states gradually being reduced in their independent position, with larger and larger extensions of power being transferred from the states to the federal government, the Senate, as the institution which has in the past specifically embodied the federal idea, may lose its *raison d'être*. A single chamber, possibly chosen on some basis of proportional, or even functional, representation might constitute a better instrument to do the work which seems to lie ahead of Congress.

If, however, the federal government is to be highly centralized and the cherished tradition of a separation between executive and legislative power is to be obliterated, definite and constructive thought must be given to the best possible organization of the central authority with respect to its function of formulating national policy. We cannot tolerate indefinitely the multitude of discordant voices which emerge from Washington, nor can we expect the President himself to constitute the unifying element necessary for the orderly formulation and achievement of national

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purpose. The problems are too numerous and too complex. He must retain the authority and responsibility, but an advisory staff agency must become a central feature in the governmental reorganization. A planned economy is something planned, not something accidental, haphazard, or ephemeral. There must be a high degree of permanence in a national plan. Modification there must be, as experience discloses weaknesses or defects. But in its general unity and integrity it must reflect the results of careful and continued scientific research; it must permit experimentation under complete control; and it must be oriented to a basic policy that does not change, since it embodies the national faith. Such a national plan cannot be made the football of party politics; its continuance cannot be made dependent on biennial or quadrennial elections. A national plan involves a permanent planning agency, a general national staff, comparable to the general staff of the United States Army, supported and assisted by a large and thoroughly equipped technical and research organization. Possibly the beginning of such an organization is to be found in the National Resources Board, successor to the National Planning Board, in the Central Statistical Bureau, and in similar agencies.

The Supreme Court will undoubtedly preserve much of its present character, but the philosophy behind its work will be substantially changed. The new jurisprudence has already discovered that its function is not that of accurately classifying cases which come before it in their appropriate conceptual pigeonholes. More and more we are realizing that this great tribunal possesses broad political powers. The court must recognize the dynamic character of our civilization. It may not thwart the inevitable process of change and progress, but it must insure that this change and progress assume an orderly and consistent form, that reasonable respect for traditional values and for the experience of the past operate to modify the impulses for radical reform. The function of the Court will become less that of a formal judicial tribunal and more that of a board of political censors, an agency removed from the swirl of practical politics, unaffected by the pressure of immediate events, and thus in a position to exercise essential controls in the interest of continuity and adequate deliberation.

What the future of state and local government may be in the United States is perhaps a question upon which it would be too venturesome to offer even a guess. The recent suggestion of

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Senator Lewis, of the possibility that the states may entirely disappear quite undeservedly called down upon his head the ridicule of the newspapers. If Washington, like a maëlstrom, is drawing to itself powers and functions hitherto regarded as clearly within the province of the states, it is likewise true that state power is growing extensively at the expense of local government. The process is definitely one of centralization on every level. The principle of local self-government, an adjunct of the original democratic ideology, is well-nigh shattered by the technological improvements in means of communication, and the increasing complexity and interrelatedness of social and economic life. The possibility of regional administrative areas developing to meet new needs is definitely suggested by the Tennessee Valley Authority. Without attempting any specific outline that reorganization of state and local government may take, we can express the certain opinion that such reorganization must be extensive and fundamental.

One essential question remains: What shall be the place and significance of the electorate in the new political order? If the major thesis of this discussion be admitted, we are passing from an age in which the democratic ideal has held a dominant position into one in which the achievement of the good life becomes the end and purpose of all our social effort and in which education will occupy a central position. The confusion in men's minds between the "people" and the electorate has theoretically made the electorate the foundation upon which government rests. We have observed how far the fact departs from the theory, but the electorate has nevertheless been endowed with such transcendant importance that it has steadily expanded by the broadening of the suffrage, and its functions increased until the ballot has become an impossible instrument for the expression of the voters' judgment and opinion. The dissipation of the democratic doctrine must result in the reduction of the electorate to its proper position as an organ of government, and its subjection to a critical appraisal, with respect to both structure and function. It must lose the halo which has surrounded it, and be judged by the effectiveness with which it performs the work assigned to it. That work must be radically reduced in amount; and it must be greatly simplified in character. Furthermore, the dogma of universal suffrage must give way to a system of educational and other tests which will exclude the

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ignorant, the uninformed, and the anti-social elements which hitherto have so frequently controlled elections. We must frankly recognize that government demands the best thought, the highest character, the most unselfish service that is available. We must admit, as did Aristotle, that an aristocratic as well as a democratic element is necessary in government—not an aristocracy of wealth, or class, or privileged position, but an aristocracy of intellect and character. H. G. Wells is right in insisting that "we want the world ruled not by everybody but by a public-minded organization open, with proper safeguards, to everybody." We can add that such an organization must be immune to the pressure of propaganda and to the seduction of special interests. The implications of such a change in the electorate with respect to the party system are far-reaching. We can definitely question whether any place can be discovered for the party system, in its present form, in the political order of the future.

If this survey of a possible reorganization of government suggests fascism, we have already recognized that there is a large element of fascist doctrine and practice that we must appropriate. But we need not fear dictatorship, so long as we preserve the guarantees of freedom of speech, freedom of the press, and freedom of association, and so long as we make education, untrammelled by propaganda and unfettered by subserviency to any end or purpose, the central goal, the supreme value of our civilization.

IV

In a recent issue of the New York *Nation* there appeared an article written by a wealthy and successful industrialist. It is addressed to his confrères, the wealthy and powerful men of industry and business in this country. The author recognizes that the condition in which the nation finds itself is due essentially to the breakdown of the capitalistic system as it has hitherto operated. He believes that the defects in this system, which have caused its breakdown, can be remedied, and his appeal is to business and industrial leaders to recognize these defects, to come to some harmonious agreement as to what should be done, and to re-assume the leadership in the process of social reconstruction and in carrying on our civilization. It is an interesting, enlightened, and significant appeal.

But it was not so much the article as its title that intrigued me.

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The title was "Seize the Torch, Men of Means, Seize the Torch." As I pondered this title, my mind ran back over the thousands of years of human history, and even farther back into that prehistory upon which the science of anthropology is now casting some faint light. And as I traversed the story of human evolution I thought I could distinguish a succession of torch-bearers, each called by some great power outside himself to seize the torch from him who had carried it before, as his step faltered and his grip loosened upon the flickering and dying flame which he had borne. And as each new torch-bearer, young and strong, took over the torch, it burst into new life and brilliance, and indeed shed a different and more penetrating light through the surrounding darkness. From torch-bearer to torch-bearer, the eternal and imperative call came, only varied by the successive names of the bearers. And I could hear from time to time the call come to those who had not the strength or will to bear the torch, or were able only to carry it for a short distance, while some other and stronger one carried a brighter torch that shed its light far and wide. And it seemed to me that I could hear each succeeding call to bear the torch. "Seize the torch, men of magic!" "Seize the torch, men of arms!" "Seize the torch, men of God!" "Seize the torch, men of birth!" "Seize the torch, men of art!" "Seize the torch, men of science!" "Seize the torch, men of means!" "Seize the torch, men of toil!" "Seize the torch, men of eloquence!" And as I followed through this long course of torch-bearing and finally arrived at the present world, I saw the runner fail; I saw his grip upon the torch loosen; I saw the torch grow dim. And then I heard the call: "Seize the torch, men of brains!"

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POLITICS, PERSONALITIES, AND THE FEDERAI TRADE COMMISSION, II

E. PENDLETON HERRING
Harvard University

IV

President Coolidge's appointment of William E. Humphrey to the Federal Trade Commission in 1925 served not only to establish a Republican majority on that body, but also to inaugurate a "new era" in its activities. Humphrey entered upon his duties on February 25, and on March 17 sweeping changes in policy and procedure were announced. No longer was the Commission to be used as a "publicity bureau to spread socialistic propaganda." The opposition from the "vocal and beatific fringe, the pink edges that border both of the old parties," would not deter the new Commission from its determination to "help business to help itself." In his effort to stress the fact that a new course was being pursued, Humphrey emphatically condemned the Commission of his predecessors. "Under the old policy of litigation it became an instrument of oppression and disturbance and injury instead of a help to business. It harassed and annoyed business instead of assisting it. Business soon regarded the Commission with distrust and fear and suspicion—as an enemy. There was no coöperation between the Commission and business. Business wanted the Commission abolished, and the Commission regarded business as generally dishonest."[29]

In explaining the change that occurred in the Commission, the power of Humphrey's personality and the influence of his speeches and writings must be considered. It is not because these declarations are particularly cogent or marked by any profundity of thought, but rather because they reflected in bald and obvious form the prevailing views of the conservative leaders in his party and in business at the time.[30] The shifting of political fortunes had

[29] Address by W. E. Humphrey at Institute of Statesmanship, Winter Park, Florida, January 6, 1931.

[30] The following creed was recited by Commissioner Humphrey before the annual meeting of the United States Chamber of Commerce, May 20, 1925:

"I express the faith of the majority of the Commission as it is composed today when I say:

We do not believe that success is a crime.

We do not believe that failure is a virtue.

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brought a combination of groups into control whose leaders expressed theories very different from the Wilsonian disciples of the New Freedom. Big business had become more than respectable. Calvin Coolidge declaimed: "We justify the greater and greater accumulations of capital because we believe that therefrom flows the support of all science, art, learning, and the charities which minister to the humanities of life, all carrying their beneficent effects to the people as a whole."[31] Business was commended by the President for correcting its own abuses through its responsible organizations with a minimum of interference on the part of the government. As the exponent of this philosophy, W. E. Humphrey

We do not believe that wealth is presumptively wrong.

We do not believe that poverty is presumptively right.

We do not believe that industry, economy, honesty, and brains should be penalized.

We do not believe that incompetency, extravagance, idleness, and inefficiency should be glorified.

We do not believe that big business and crooked business are synonymous.

True, we will give closer scrutiny to big business than to small business because of its greater power for good or evil.

We believe that 90 per cent of American business is honest.

We believe that 90 per cent of American business is anxious to obey the law.

We want to help this 90 per cent of honest business.

We want to control or destroy the 10 per cent that is crooked.

In this endeavor we want your help. We hope to deserve it."

The following quotation is taken from one of many similar speeches which Commissioner Humphrey was in the habit of delivering before trade associations. It serves better than any description to give his fundamentalist views toward political and economic institutions: "Today we witness a strange paradox. In the midst of plenty, many are in poverty. There is an abundance of everything that goes to make up prosperity except work. We are inclined to blame everything but ourselves, but the fact is that we alone are to blame. The foundation of this world-wide depression is speculation—gambling; the desire to get rich quick. The world has forgotten the divine truth proclaimed more than three thousand years ago, that 'By the sweat of thy face, thou shall eat bread.' Too many want to eat without sweating. But prosperity will come again. I sometimes feel like crying out as did the prophet of old, 'O, ye of little faith.' I still have faith in the men and women of my country. I still believe in the institutions of my country. I still have an abiding faith in the constitution of my country. I believe that the constitution of my country is the wisest and safest guide for free government that human wisdom has ever yet devised. I believe that it is the 'Ark of the Covenant' of our prosperity, our happiness, our liberty, our future greatness, and our safety. I still believe that the Stars and Stripes float over the greatest heritage of the human race. Let us not forget the foundation principles upon which our nation rests, nor depart from them in these times of adversity and distress to follow after strange gods. In this time of trouble, I would that the daily prayer of every American citizen should be: 'Lord God of Hosts Be With Us Yet, Lest We Forget—Lest We Forget.'"

[31] *Boston Herald*, November 28, 1920.

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joined the Commission. "He dominated it from that day on," said Senator Norris, "and the majority have followed him."[32] The effect of Humphrey's appointment was more far-reaching than any decision of the Supreme Court. It gave a radically altered policy and viewpoint to the Commission.

The new commissioner, together with his conservative colleagues, wished to stop certain investigations from being made for the Senate. As already noted in the case of the meat-packers, the power to conduct investigations under Section 6 of the Federal Trade Commission Act was the cause of grave disagreement and virulent political criticism of the commissioners for their interference with business. The attack centered upon the Economic Division of the Commission which, under the able Dr. Francis Walker, conducted these investigations. Members of the Commission, as well as certain congressmen, were desirous of curtailing this work, but they hesitated to do so directly out of fear of the possible political reaction in the Senate.

Commissioner Van Fleet and Mr. W. R. Wood, Republican chairman of the House sub-committee in charge of the independent offices appropriations, had previously contrived a rider to the appropriation bill (approved March 3, 1925, 43 Stat. at Large 1203) designed to narrow the Commission's investigatory authority. This rider provided that "no part of this sum shall be expended for investigations requested by either house of Congress, except those requested by concurrent resolution of Congress; but this limitation shall not apply to investigations and reports in connection with alleged violations of the anti-trust law by any corporation." Under the authority of this rider, the majority members ordered the Chief Economist to drop all investigations *except those of anti-trust law violations*. Dr. Walker refused to be put in the position of deciding which investigations involved infractions of the law. Humphreys thereupon attacked the Chief Economist in an open statement to which the latter publicly responded. The next move was to refer the whole question to the Comptroller-General.

This official side-stepped the issue by holding that the Commission itself had to decide whether a particular investigation involved a violation of the anti-trust laws. Meanwhile, Senator Norris began to inquire why the Commission was not carrying

[32] *Cong. Rec.*, March 20, 1926, p. 5963.

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forward an investigation in which he was deeply interested. The Van Fleet-Hunt-Humphrey triumvirate thereupon asked the Attorney-General for his opinion as to the legality of the Senate's requests.[33] His ruling upheld as alleged violations of the anti-trust laws all the investigations proposed by the Senate, and thereby made it the duty of the reluctant Commission to proceed.

Balked in their first efforts at narrowing their own scope of jurisdiction, the conservative commissioners found another opportunity in 1928. Abram F. Myers, who as a lawyer in the Attorney-General's office had written the opinion concerning the Senate investigations, was now a member of the Commission. He proposed that the power to undertake economic studies under Section 6 of the act be broadly exercised. The violent reaction to this suggestion from conservatives in the House and on the Commission showed the forces desirous of limiting the Commission's significance as an independent regulatory body. Representative Wood tried vainly to cut off the appropriations for economic studies and to discredit the work of this division. His committee on appropriations condemned "economic investigations" and called the attention of Congress to this "misdirected energy of the Commission."[34] Said Mr. Wood: "I am not able to grasp the necessity of the economist [Dr. Walker] or any good that he does except to promulgate a lot of wild-eyed theories and idealisms."[35]

By 1929 there was little sympathy with the Wilsonian conception of "pitiless publicity." Those dominating the Commission had a very different attitude as to the relations of government and business, and they coöperated with those in Congress who held similar views. The Commission could not remain "independent" of the new political climate surrounding it, and even its experts were eventually affected by the storm in which their superiors were principals. There was no magic haven to which the non-political expert could withdraw when his directing officers disagreed upon fundamental matters of policy. The House refused to support Representative Wood's attack on the Economic Division; but although the Division's sustenance was thus not

[33] The annual report of the Federal Trade Commission for 1925, pp. 112–127, contains the text of the opinions, resolutions, etc., referred to.

[34] House Report No. 293, 70th Cong., 1st Sess., p. 9.

[35] For a discussion of this whole question, see *Hearings Before the Sub-Committee of the House Committee on Appropriations, Independent Offices Appropriations Bill, 1929*, 70th Cong., 1st Sess., pp. 515–605.

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dried up at the source, its effectiveness was considerably withered by the glare of unsympathetic commissioners.

The advent of Humphrey to the Commission meant not only the discouragement of embarrassing investigations but also a more lenient regulatory policy. This was made manifest in changed rules of procedure.[36] The practice was adopted of granting an informal hearing to a business concern before action was brought through a formal complaint. Thus opportunity was given for persuading the Commission not to prosecute. Another innovation was the settlement of cases by stipulation. By pledging to discontinue objectionable practices, business concerns were thus saved the publicity of formal complaint and public prosecution by the Commission. This procedure likewise relieved the Commission of labor and pleased business men who feared the unfavorable effect of being accused of dishonest or unfair methods of competition. In making public the results of stipulations, the Commission carefully refrained from mentioning by name the companies involved. The procedure was widely used, and applied even in cases of fraud and deliberate misrepresentation. The minority members, Nugent and Thompson, vigorously objected to this innovation, holding that pitiless publicity of wrong-doing was a weapon that the Commission had no right to relinquish. The new policy was likewise denounced by progressives in the Senate.[37] The coming of Humphrey to the Commission meant that private negotiation with concerns accused of unfair methods was substituted for the former policy of prosecution. The new Commission definitely wanted to keep out of court. "In carrying out this new policy of coöperation," Humphrey stated, "in no instance has any concern been unjustly driven into bankruptcy." "The credit of no honest business has been destroyed, nor the reputation of any innocent person blackened—results that frequently happened and were inevitable under the old policy."[38]

Another change under the new policy was the development of the trade-practice conference. Although trade-practice submittals were started in 1919, they had not been emphasized or developed. Their purpose was to clarify for business men the meaning of unfair competitive methods. The Commission simply invited repre-

[36] Annual Report, 1927, pp. 1–4.
[37] *Congressional Record*, March 20, 1926, p. 5944 ff.
[38] Speech at Winter Park, *op. cit.*

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sentatives from a particular industry to meet and discuss "frankly and fully" those practices regarded as unfair or uncertain. Their conclusions were accepted by the Commission as of informative value, but were accorded no legal significance. This was the first concession made by the commissioners to the industrialists who desired advice and coöperation from the government in self-regulation of business. Until 1926, two or three submittals were the yearly average, but during the next three years the average increased rapidly. The high point was reached in the winter of 1929–30, when fifty-seven conferences met. This was twice the number held the year before, and nearly half the total of 125 held between 1925 and 1930.

When the new procedural policy went into effect in 1926, Humphrey, Hunt, and Van Fleet were the ruling majority. In August, 1926, Van Fleet was replaced by Abram F. Myers. The latter had always favored the development of a law merchant, and he looked upon the trade-practice conference as a means of broadening the legal conception as to what constituted unfair methods of competition. There was even the hope that if the consensus of business opinion, supported by the Commission, condemned certain practices, the courts might be brought around to a broader interpretation of unfair methods of competition. It might be possible thus to counteract the definitions of the Gratz case in the face of a "new common law" built up by administrative precedents. Thus the Commission might possibly reopen the path obstructed in the past by adverse judicial decisions. If the Commission could be persuaded to sponsor such rules, the definition of unfair methods of competition might be broadened and practices condemned that were not banned by the common law. By 1928, the trade-practice conference agreements had been expanded to include not only the Group I rules, i.e., those banning practices clearly unlawful under the statute, but also the Group II rules, i.e., those eliminating methods not illegal but unfair and unethical in the opinion of the industry. The Commission accepted these rules as "expressions of the trade."

Self-regulation of business was the current slogan for leaders in business and government. The 1926 meeting of the national Chamber of Commerce was devoted to the topic. A trade-practice conference division was created in 1926 to facilitate this aspect of the Commission's work. A special director now superintended the

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preparation for, and conduct of, these conferences. He was, likewise, supposed to watch for violations of the rules agreed upon, but was unable to do so because of inadequate facilities and the ever-increasing pressure of his work. By the end of 1929 the Commission could not keep up with the applications for conferences. This same year, with enthusiasm for the trade-practice procedure at its height, the Commission condemned as illegal the secret violation by businesses of trade-practice agreements to which they were parties. If a business man wished to renounce a trade-practice agreement, he should do so openly. A clandestine violation the Commission decided to treat as a fraudulent practice. Could the Commission punish for this offense? Would the agreements entered into by business men be enforced by the courts? The Commission's acceptance of the secret violation rule as an unfair method of competition under the law could be used to put the whole procedure to the test.

As an appointee of Coolidge, Myers believed that industry should remain as independent of government regulation as possible, but he also thought that the Commission should assist in the formulation of trade practices by expressing an opinion with regard to business rules of conduct. Commissioner McCulloch likewise thought that the Commission should "open the trail by deciding whether or not a given practice is lawful or unlawful so as to give the court an opportunity to adjudicate the question."[39]

Then suddenly the Commission rescinded the secret violation rule and in the spring of 1930 announced that it had decided to reconsider the rules that it had already accepted and that had been in use for months and years by over eighty industries. The Commission offered no explanation other than the statement of the chairman that "some of the rules are, to say the least, questionable."[40]

The reaction from industry was one of consternation and strenuous objection. Why this sudden change of front? In May, 1930, a congress of industries was organized in Washington to negotiate with the Commission. To the protest issued by this conference, the commissioners replied that unless the industries by October,

[39] Memorandum as of May 29, 1929, p. 1. Quoted in *Public Regulation of Competitive Practices*, p. 241 (National Industrial Conference Board).

[40] See statement of Senator G. P. Nye in *Hearing before Sub-Committee of Committee on the Judiciary, U.S. Senate*, 72nd Cong., 1st Sess., 1932, pp. 294–295.

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1930, filed briefs showing why their rules should not be revised, the commissioners' revisions would stand. Few concessions were actually made, and the trade-practice conference procedure was generally discredited among business men. This change in policy so restricted its scope and rendered so uncertain its validity that industrialists could see little point in attempting further coöperation with the Commission in formulating codes of ethics. Various theories were put forward by business men in explaining the Commission's change. Said one such apologist: "Recent criticism alleging lack of authority to function in this manner and misrepresentation of the purpose and effect of the trade-practice conference have undoubtedly been the cause for the varying views which the Commission has expressed."[41] Another explained: "It may be that the apparently vacillating and weak policy of the Commission is really based upon its fear that it may lead an industry into conflict with the Department of Justice, and that to prevent such an unfortunate contingency it uses extreme care and caution, thereby giving the impression that it "draws the teeth" of the trade-practice rules and weakens them unnecessarily."[42] There is no evidence to show that the Commission was withdrawing for fear of criticism or fear of conflict with the Department of Justice. In fact, on May 1, 1930, John Lord O'Brian, assistant to the Attorney-General in charge of antitrust work, assured the American Trade Association executives that the Department of Justice had "no hostility to the federal trade-practice conferences."[43]

Although any explanation of the Commission's motivation in making this "about-face" is necessarily speculative, certain circumstances point to an interpretation worthy of attention. Here again the Commission's reversal of viewpoint can be accounted for satisfactorily by changes in personnel. Commissioner Myers resigned in 1929 to become general counsel for an association of motion picture exhibitors. He had successfully conducted a motion picture conference, and these interests were desirous of his further services. He was succeeded by Charles March, who joined with Humphrey and Hunt and thereby created a conservative majority. The change in policy followed. The secret violation rule

[41] *Hearings, op. cit.*, pp. 152–153.
[42] *Hearings, op. cit.*, p. 52.
[43] *Ibid.*, p. 306.

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was rescinded and a year later the general revision of rules was ordered. It seems probable that Humphrey did not at first realize the trend which trade-practice conferences were taking. He had been their greatest advocate, but he did not wish them used to restrict competition. It was all very well to encourage business men to mend their ways, but using the trade-practice conference as a means of bringing unethical practices into the category of unlawful competition practices was another matter entirely. Why should officials antagonize a minority of an industry and commit the government to a stand that might later be overruled by the courts? This was scarcely in keeping with the narrow view of the Commission's authority taken by the Republican members. Humphrey, March, and Hunt did not wish to go so far, and they doubtless were consistent with their main tenet of keeping governmental intervention at a minimum. Their conception as to the responsibility of the Commission differed from the views held by Thompson and Nugent or by Myers and McCulloch. The policy of this administrative agency at various times fell under the influence of these factions. Thus is its apparent inconsistency explained. Conflicting personalities and widely divergent viewpoints among the commissioners must be put down as a basic cause of the failure of the Federal Trade Commission. These differences that handicapped accomplishment reflected in turn a change in national policy. "Politics" entered the Commission directly through its members and further influenced its deliberations through the President and Congress.

V

Great faith has been placed in expert and independent administrative tribunals as the agencies best suited for exercising control over public affairs which because of their technical character or peculiar complexity lie beyond the competence of Congress. The theory has been accepted that such commissions suitably empowered by an act of Congress can then be left free to execute the law. The chief concern was with securing experts who would function impartially. It was assumed that these officials would grow in wisdom and experience and build up a body of precedents that would in time (the courts being amenable) develop into a system of administrative justice.

These commissions establish their integrity and develop their prestige to the extent that their decisions are supported by the

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courts and their officers freed from political interference. This means that once their field is indicated by Congress, the commissioners are left to interpret the statute in accordance with their view of public policy. It also means that when amendatory legislation is added it comes at the initiative and in accordance with the views of the commissioners. The Interstate Commerce Commission is the outstanding case of the development of administrative law under these favorable conditions. Henderson (p. 341) wrote of the Federal Trade Commission: "I conceive it to be, potentially, an expert tribunal, of steady tenure and scrupulous judicial poise, firm in the public interest but impartial as between the private economic groups affected by its action."

Any administrative agency should, of course, remain free from petty favoritism in dealing with private parties. But whether such a commission can give substance and form to the "public interest" and remain detached from the conflict of special interests before it is another question. Basically, it seems to me, the function of the Commission is to *favor* one interest as against another, the standard of judgment being the abstract concept of public welfare in the minds of the administrators. The application of such a criterion causes no particular difficulty in the Patent Office or the Steamboat Inspection Service. The standards applied by these bureaucrats are not the subject of political controversy. The Federal Trade Commissioners, however, function in a very different context. Under the Republican party of Coolidge and Hoover, governmental policy *was* business policy. The official *laissez-faire* attitude, in so far as the *regulation* of industry was concerned, inevitably meant the recession of the Federal Trade Commission from the supervision of big business. No group of bureaucrats was to sweep back the rising tides of economic enterprise and private initiative.

The public interest in any given situation can be interpreted only in terms of certain group interests. The selection of the groups whose welfare is to be identified with the general welfare depends upon the policy to which a particular administration is committed. The Federal Trade Commission was created under one conception as to how the general welfare was to be attained, but its political and economic background changed radically. The public interest, in the years following the Wilson Administration, became identified with another combination of economic and

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social forces holding to a viewpoint antithetical to the recent past. What is possible for an administrative commission under such circumstances?

"It seems to me," said Senator Norris, "that if the Commission is to function, if it is to continue to perform the work that the law designed it to perform, its personnel must be of men who believe in that kind of a law. For the purpose of the discussion, we must assume that that kind of a law is right. I am not quarreling with any man who disagrees with me in that assumption, but he must agree, even though he does not agree in the law, that if we have a law at all, and if we are honest about it, it is based on the assumption that the law is good and that that kind of a commission can do some good for our people."[44]

The Federal Trade Commission kept within the letter of the law, but, as we have seen, the statutes can be variously administered. Special interests recognized this and fought for their interpretation of the law. The Commission, as a form of organization, has proved adequate in protecting administrators from coercion by special interests. The commissioners have abruptly altered their course in the face of violent protest from trade associations. They have investigated powerful corporations despite the efforts of the Congressional critics to discredit their work. If no remedial legislation has followed their reports, it is the politicians, not the administrators, who must be held accountable. The character of their responsibilities and the great resources of the interests which they are called upon to regulate have rendered their task difficult but by no means insuperable. Special interests have, on the whole, responded hopefully when the Commission has attempted coöperative undertakings. With regard to investigations, the Commission has found that some concerns willingly assist while others debate every step, create difficulties, and prolong negotiations unduly.[45] It cannot be said that the Commission consciously succumbed to certain economic groups, even though their pressure has at times been great. The Commission has clearly responded, however, to the indirect influence of these forces as they have acted through their political representatives. It was to this that Senator Norris objected. At the

[44] *Cong. Rec.*, March 20, 1926, p. 5962.

[45] *Hearings on Independent Offices Appropriations Bill, House Appropriation Committee, 1931*, p. 134.

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time of Humphrey's appointment, he stated: "It seems to me that we are justified in saying that there has been an attempt going on at the head of the government to fill the Commission, as well as other commissions, with men who have no sympathy for the law that is provided for the Commission itself."[46] Humphrey's views were well-known, and his appointment could well be taken as an expression of policy by the Chief Executive. Although the commissioner was criticized harshly in both House and Senate, no reflections were cast upon his honesty, ability, or sincerity of purpose. He was known as a staunch defender of business and of *laissez-faire*. Members of Congress who differed with these views condemned his appointment.

The issue raised is really a very fundamental one. Can we question the President's right to appoint any one he chooses to serve on administrative bodies if his appointees meet the statutory requirements and are known as men of honesty and ability? Is the President to be restricted in his selection to men whose views coincide with the theories of those already serving on a given commission? We are confronted with contradictory concepts of administration. If an integrated and responsible bureaucracy is sought, then presidential control and leadership is necessary. Can such a system be reconciled with the concept of administration by *ad hoc* regulatory agencies working independently in certain fields? Could President Coolidge be accused of bad faith in appointing commissioners who differed in viewpoint from the political leaders of 1914? He could not dodge his responsibility when the time came to make appointments. There was no guarantee that the commissioners' view of standing "firm in the public interest" would be acceptable to the President. Yet if the officials on these boards are not in sympathy with the Administration, the President's program is threatened when it falls within the ambit of their authority.

When President Franklin D. Roosevelt embarked upon his plans for national recovery, he gathered into his hands every strand of authority that might lead toward his objectives. At the level of the presidential office, a greater degree of integration was introduced into the federal administrative organization than has ever been witnessed in peace-time experience. And the reach of the President did not falter before the independent commissions.

[46] *Cong. Rec.*, March 20, 1926, p. 5963.

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The problems of these bodies were regarded as presidential responsibilities as well. The tasks of the Federal Trade Commission, the Tariff Commission, or the Interstate Commerce Commission could not be separated from the rehabilitation of trade and industry. Yet how could these establishments participate in a national recovery program and still remain independent administrative agencies? The President got around this difficulty in his characteristically adroit fashion. Placing his key men in the departments was a simple matter, but bringing the independent establishment within his control required more ingenuity. The judicial calm of the Interstate Commerce Commission was left undisturbed, but the most able and aggressive commissioner was created federal coördinator of transportation. The Tariff Commission was reduced to a harmless position through the passage of the reciprocal tariff act. The Radio Commission was abolished outright and a New Deal commission took its place. The President secured the resignation of Hoover's chairman of the Power Commission and added two appointees of his own. Only in the case of the Federal Trade Commission did he meet opposition; and when William E. Humphrey demurred, the President demanded his withdrawal in no uncertain terms. His economic and political theories were anathema to the new Administration. Yet to the extent that the interposition by the Chief Executive is admitted, the concept of administration by independent, judicious, and expert tribunals is vitiated. Where spheres of authority can be clearly allocated to independent administrative agencies, a conflict with presidential leadership is avoidable in most cases.

Persistent political interference, whether expressed through changes in personnel or through "influence" upon policy, breaks down continuity of precedent and objectivity of judgment. There is no point in creating a special independent commission unless full confidence is reposed in its discretion and freedom of action permitted. From the experience of such a body, the legislature can secure reliable recommendations for statutory amendment and amplification. Before this is feasible, however, there must be agreement either as to ultimate purpose or at least upon general orientation. When the Federal Trade Commission came into existence, there was apparently a general belief that the *right* policy meant the protection of the little business man against the trusts. But the problem has since been recognized as much less

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simple than this. Witness the efforts of late to get away from "the hindrance of cut-throat competition" which industry claims has been imposed by the anti-trust law.[47] An agreed policy concerning government regulation of industry has not yet been developed with the clarity or objectivity essential in establishing a basis for the free exercise of discretion by an independent commission. Vacillations as to fundamental policy have so disrupted the career of the Federal Trade Commission that it is hardly fair to judge this body by the criterion which McFarland suggests. He says (p. 170): "Since the object of administrative justice is the establishment of a new régime—or perhaps a new body of law—in some phase of social control, the extent to which this purpose is realized should furnish the basis for critical examination of systems of commission regulation." Clearly the Federal Trade Commission, if it is to win a place comparable to the position of the Interstate Commerce Commission, must be given a new and clear statutory mandate from Congress and authority to make effective its rulings without resort to the Department of Justice. However, our review of the administrative tribulations of the Commission raises the question of whether an independent commission is an administrative device properly suited to meet present demands for the regulation and guidance of industry and commerce.

The National Recovery Administration typifies an approach perhaps better suited to existing conditions. It is frankly an arm of the Chief Executive designed for the execution of a policy for which the Administration stands responsible. During the Coolidge-Hoover period, the Federal Trade Commission likewise reflected presidential policy. President Roosevelt regards the regulation of business as an integral part of his program. This does not presage well for the hopes of those who would make the Trade Commission into another Interstate Commerce Commission. It seems improbable, in view of the economic and political forces involved, that Congress and the President will be willing or able to give the commissioners the freedom that is essential to the building up of a régime of administrative justice in the near future.

[47] Senator D. I. Walsh introduced bills in January, 1932, and May, 1933, providing for advance approval by the Federal Trade Commission of contracts to curtail production. Safeguards as to fair price and fair wages were included. *Cong. Rec.*, May 1, 1933, p. 2602.

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One is brought to the conclusion that for the present the control of business remains too controversial and too vital a political issue to be relegated successfully to a commission independent of close control by the policy-formulating agencies of the government. Administrators cannot assume the responsibilities of statesmen without incurring likewise the tribulations of politicians.

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CONSTITUTIONAL LAW IN 1933–34

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1933

ROBERT E. CUSHMAN

Cornell University

A. QUESTIONS OF NATIONAL POWER

I. LEGISLATIVE POWER

1. *Taxation—Federal Excises on State Liquor Stores*

Following the repeal of the Eighteenth Amendment, the state of Ohio authorized by statute the creation of a state liquor monopoly, purchased $4,500,000 worth of liquor, and perfected plans for the retailing of it through 187 stores owned and managed by the state. In Ohio v. Helvering,[1] the state sought an injunction to restrain the commissioner of internal revenue from collecting from the state the customary federal excise taxes upon the sale of intoxicating liquors. It alleged the immunity of the state and its instrumentalities from federal taxation and further claimed that the federal taxing statutes were not intended by Congress to apply to the states. The court, speaking through Mr. Justice Sutherland, upheld the collection of the tax, reaffirming the doctrine laid down in 1905 in the South Carolina Dispensary Case.[2] The immunity from federal taxation enjoyed by the states extends only to those agencies and functions which are governmental in character and not to those which are proprietary. "When a state enters the market place seeking customers, it divests itself of its quasi-sovereignty *pro tanto*, and takes on the character of a trader, so far, at least, as the taxing power of the federal government is concerned." The Court rejected as "altogether fanciful" the argument that the passage of the Eighteenth Amendment and its later repeal had so altered the status of the liquor traffic that its conduct by the state has become an exercise of the state's police power, and hence a governmental operation immune from federal taxation. The Eighteenth Amendment did not change a private business into a governmental function. The police power of the state extends to the regulation of a private business, but not to the carrying on of that business. The state may properly engage, so far as the Federal Constitution is concerned, in the liquor trade, but it is not exercising its police power in so doing. Nor is there any virtue in the contention that a state is not a "person" within the meaning of the pertinent sections of the Revenue Act.

The result of the decision seems wholly desirable. It would be unfortunate to have the range of non-taxable interests and functions enlarged,

[1] 292 U.S. 360, 1934. [2] South Carolina v. United States, 199 U.S. 437, 1905.

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and in this particular case the loss of revenue to the federal government would have been very substantial had the state's claim been upheld. At the same time, the distinction between the state's governmental functions and those which are termed private or proprietary is not very definite nor very convincing. It is difficult to see what harm could result from a judicial softening of the strict rule of state immunity from federal taxation of governmental agencies or functions which would frankly recognize that whenever a state avails itself of any general privilege or right which lies within the taxing jurisdiction of the federal government, it should be obliged to pay the same tax as all others who may enjoy that privilege or right, even though the state's exercise of the right be deemed governmental in character. If the equilibrium of the federal system is not disturbed by requiring a state to pay tariff duties upon goods imported for use in the performance of governmental functions, it is difficult to see why it would be disturbed by requiring the payment of an excise tax on liquor sales, even if such sales be deemed to be incidents of the governmental function of regulating the sale and use of intoxicants in the interest of public morals and welfare.

2. *Interstate Commerce—Federal Control of Intrastate Rates*

In four cases during the 1933 term, the Supreme Court sustained orders issued by the Interstate Commerce Commission compelling the increase of intrastate railroad rates in order to remove discriminations against interstate commerce. While none of these cases raised constitutional questions as to the Commission's power to issue orders of this type, they throw light upon the scope of that power and the varied problems respecting its exercise which new situations are presenting. In Florida v. United States,[3] the Commission had ordered the Atlantic Coast Line Railroad Company to increase its rates on certain wholly local shipments of logs in order to remove an unjust discrimination against interstate commerce caused by the fact that the local rates were so low that they did not produce their fair share of the road's revenues. The Transportation Act of 1920 had clearly authorized the Commission to issue this type of order. The order in this case was found to be supported by the Commission's findings of fact. It was urged that the Emergency Railroad Transportation Act of 1933, which repealed the recapture clause and altered the rate group principle in the fixing of rates by the Commission, also abolished the Commission's power to adjust local rates when discriminatory against interstate commerce and the revenues derived therefrom. The Court rejected this argument and held that the new legislation disclosed no intention to impair or alter this important power of the Commission.

[3] 292 U.S. 1, 1934.

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In United States v. Louisiana,[4] another order of the Commission compelling an increase in local rates to enable interstate carriers to earn a fair return was upheld in view of the findings of fact presented. It was further pointed out in the Court's opinion that the order was not invalid because the Commission had not made a separate finding, in the case of each individual rate so changed, that the interstate rates which were being protected were reasonable. The rail system of the country is treated by the Transportation Acts as a unit and the Commission's power extends broadly to the removal of discrimination against the revenues of interstate carriers, rather than being limited to the removal of discrimination against particular interstate rates found separately to be reasonable. Here the local rates were raised to meet the "reasonable general interstate level."

In Ohio v. United States,[5] local rates on coal in Ohio were ordered raised in order to iron out discrimination against interstate commerce in coal to the same general destination from western Pennsylvania. The Commission's power to prevent this discrimination against localities is sustained by the Court, even though the Commission has made no effort to determine the reasonableness of all the substantially competitive interstate rates on coal moving to the same general destination from regions other than those against which the discrimination is alleged. The Commission's duty has been fulfilled when it has determined that the interstate rates against which discrimination is charged are generally reasonable. Finally, in Illinois Commerce Commission v. United States,[6] an order of the Commission was upheld which directed the removal of discrimination against interstate commerce resulting from a disparity of intrastate and interstate switching rates of interstate rail carriers in the Chicago switching district, which lies partly in Illinois and partly in Indiana. The low local rates were ordered raised. Here the order was not based upon findings of discrimination against localities, nor even specific findings of discriminations against interstate revenue, but upon the broader ground that the Commission has power, in the words of a recent commentator, "to require uniformity in rates where a long established set of rate relationships has been embodied in a single rate structure in which state and interstate rates are so closely mingled as to form an indivisible whole."[7] The discrimination, in other words, is broadly against interstate commerce rather than places or revenues. The order was sustained.

[4] 290 U.S. 70, 1933. [5] 292 U.S. 498, 1934. [6] 292 U.S. 474, 1934.

[7] For a careful analysis of this whole movement for the federal control of local rates, see the excellent note by Harvey C. Mansfield, "Interstate Commerce Commission Control of Intrastate Rates," *Yale Law Journal*, Vol. 44, p. 133 (Nov., 1934).

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3. *Elections—Federal Corrupt Practices Act*

Bishop James Cannon, Jr., and his secretary, Ada L. Burroughs, were indicted in the District of Columbia for violations of the Federal Corrupt Practices Act of 1925. They were charged with having received money for use in the presidential campaign of 1928 without having filed the statements regarding such funds required by law. The statute defines as a "political committee" any organization which receives or spends money for the purpose of influencing the election of the president or vice-president in two or more states, or in one state if the organization is part of a national committee or association. Such a committee must have a chairman and treasurer, and the treasurer is required to keep a detailed account of the moneys received, the names of the contributors, and the expenditures of the funds, and to report the same to the clerk of the House of Representatives. In Burroughs v. United States,[8] the Supreme Court upheld the validity of these provisions of the Federal Corrupt Practices Act against the contention that Congress had no power to regulate the receipt and expenditure of money in presidential elections. The attack was grounded upon two points: first, that Congress has no delegated power over elections except that which is specifically granted with respect to congressional elections in the Constitution, and second, that Congress, under the Constitution, has no power over the appointment of presidential electors and can, therefore, exercise no authority over individuals concerned in the processes of choosing such electors. The Court, speaking through Mr. Justice Sutherland, rejects these contentions and sustains the act. The purpose of the act is to preserve the purity of presidential and vice-presidential elections, and it in no way interferes with the power of the states to appoint presidential electors in any ways they see fit. It in no sense invades exclusive state power, since it applies to committees organized for the purpose of influencing elections in more than one state, and therefore deals with matters over which the states have little or no power. The Court then falls back upon the broad doctrine of the power of federal self-preservation as developed in the case of *Ex parte* Yarbrough.[9] The argument as applied to the facts of this case runs as follows: "The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to an effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self-preservation. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from

[8] 290 U.S. 534, 1934. [9] 110 U.S. 651, 1884.

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impairment or destruction, whether threatened by force or corruption." The choice of the means necessary to accord this protection to the institutions of government is left with Congress, and those here chosen cannot be said to be unreasonable or arbitrary.

II. JUDICIAL POWER

1. *Immunity of States from Suits by Foreign States*

Can a foreign state invoke the original jurisdiction of the Supreme Court of the United States in a suit against a state of the Union without the consent of that state? This question was raised squarely in Monaco v. Mississippi[10] and answered by a unanimous court in the negative. Bonds issued by the state of Mississippi in the 1830's, and long since defaulted, were given outright to the principality of Monaco by the original owners, who as individuals were barred by the Eleventh Amendment from suing the state. The argument of the Monacan counsel has a certain surface plausibility. It runs as follows: By clause 1 of Article III, the judicial power of the United States extends to controversies "between a state, or the citizens thereof, and foreign states, citizens or subjects." The originial jurisdiction of the Supreme Court extends to cases "in which a state shall be a party." The Eleventh Amendment does not forbid suits brought by foreign states against one of the United States. The constitutional clauses do not indicate that federal judicial power shall extend to cases involving states only when such states are plaintiffs, nor is there any specific requirement that a state must consent in order to be sued as a defendant. The Court, in an opinion written by Chief Justice Hughes, examines this argument with care and rejects it. The mere fact that the Constitution does not say that states may not be sued without their consent does not mean that they may be sued without their consent. Such reasoning would authorize suits against the United States without its consent, since the judicial power extends to cases to which the United States is a party; and yet it has never been supposed that the United States could be so sued. There is no ground for assuming that in all the controversies described in clause 1, Article III, and not forbidden by the Eleventh Amendment, the state may be sued without its consent. Suits in admiralty are not specifically barred by the Eleventh Amendment, and yet they are inadmissible without the consent of the state.

More important still is the fact that in Hans v. Louisiana[11] the Court held that a state cannot be sued without its consent by one of its own citizens, a case not covered by the Eleventh Amendment. The Eleventh Amendment is not to be read literally, but in the light of certain fundamental postulates, among which is that the states of the Union possess attributes of sovereignty which render them immune to suit without

[10] 292 U.S. 313, 1934.

[11] 134 U.S. 1, 1890.

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their consent unless that immunity has been surrendered by the necessary implications of the federal system. This postulate has underlain the decisions of the Court save in Chisholm v. Georgia,[12] which was definitely recalled by the Eleventh Amendment and the fundamental reasoning of which the Court now repudiates in favor of the theory expounded by Mr. Justice Iredell in his dissenting opinion in that case. Summarizing the whole case, the Court points out that the judicial power of the United States extends to five classes of cases in which a state may be a party or in which an action may be brought against it. There are two of these—suits against a state by other states, and suits against a state by the United States—in which the immunity of the state from suits without its consent has been given up or waived by the state's membership in the federal Union.

In the third type of case—suits by citizens of other states—the Eleventh Amendment sets up a complete bar. In suits brought by the state's own citizens, the Court has held in Hans v. Louisiana that the doctrine of the general immunity of the sovereign from suit prevents the suit from being brought without the state's consent. The same general doctrine governs the present and fifth type of case of suits brought by foreign nations. Jurisdiction can be entertained only with the consent of the state. And in this respect the state is in no different position from that of the foreign nation which could not itself be sued in the United States courts without its own consent. Furthermore, it is pointed out that if such suits are permitted, the states of the Union may become involved in controversies with foreign nations with respect to matters of national concern. There is no reason to suppose that the framers of the Constitution, who established exclusive control of foreign affairs in the federal government, contemplated that this exclusive control should be impaired or broken down by the action of foreign countries in suing the states of the Union in the federal courts.

2. *Suits Between States*

In Alabama v. Arizona,[13] the Court declined to take jurisdiction in an action seeking an injunction to restrain Arizona, Idaho, Montana, New York, and Pennsylvania from enforcing the provisions of statutes forbidding the sale upon the open market of goods produced wholly or in part by convicts of other states. These statutes were passed under the authority of the federal Convict-Made Goods Act of 1929, which became effective in 1934, and which divested convict-made goods of their interstate character and subjected them to the police power of the states into which they might be brought, to the same extent and in the same manner as though they had been produced there. The action originally sought

[12] 2 Dallas 419, 1793. [13] 291 U.S. 286, 1934.

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relief against nineteen states having such laws, but was later altered so as to involve only five. Alabama set forth a showing of facts as to the amount of goods made under her prison labor system, the value of such goods and the injurious results which she would suffer if the interstate market for those goods should be withdrawn. The Court declined to take jurisdiction, on the ground that the action was multifarious in that it attacked the laws of five states essentially the same and without detailed specifications, that there was not a sufficient allegation of facts upon which to seek relief, that it was not clear that the laws would not be attacked by other parties much more directly concerned, and that for all these reasons the action amounted to a request by Alabama for an advisory opinion or declaratory judgment with reference to a constitutional problem, a request beyond the proper limits of judicial power.

3. *Miscellaneous*

The immunity from reduction of official salaries so carefully conferred upon federal judges by the provisions of Article III is held in Booth v. United States[14] to extend to federal judges who have "retired" from active service under the provisions of the act of 1869 and its amendments. The statute permits judges, upon reaching the age of seventy and upon the completion of ten years of service upon the bench, to retire upon full salary. They may be called upon by the senior circuit judge of the circuit or by the Chief Justice to render judicial service, and such calls are frequently made upon them. The constitutional immunity from salary reduction extends to judges "during their continuance in office," and the Court holds that these retired judges are still in office. If they are not still in office, then clearly they cannot be asked to render judicial services. There is a sharp distinction between such retirement and an outright resignation. It is also held that there has been an invalid diminution in the judicial salary, even though the reduced salary is greater than that which the judge received at the time of his appointment.

In Funk v. United States,[15] it is held that the federal courts, in the conduct of criminal trials, are at liberty to modify the common law rules of evidence, in the absence of any congressional action, when conditions have so changed as to make it inappropriate to cling to the ancient rules. In this case, the Court reversed a conviction in the trial court, on the ground that the wife of the defendant was not permitted to testify in his behalf because under the common law rules she was incompetent as a witness for or against her husband. In an interesting opinion by Mr. Justice Sutherland, it is held that the courts need not be bound by ancient rules which have outlived their usefulness and the reasons for their establishment. "The fundamental basis upon which all rules of

[14] 291 U.S. 339, 1934. [15] 290 U.S. 371, 1933.

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evidence must rest—if they are to rest upon reason—is their adaptation to the successful development of truth." Under modern conditions, there is no reason why the wife should be held incompetent as a witness. The opinion contains an illuminating discussion of the need for flexibility in the law.[16]

III. FEDERAL BILL OF RIGHTS

1. *Fifth Amendment—Confiscation of Contract Rights—Due Process*

The Economy Act of 1933, in addition to reducing pensions, compensation allowances, and other veterans' privileges, created by earlier statutes, contained the clause that "all laws granting or pertaining to yearly renewable term insurance are hereby repealed." In Lynch v. United States,[17] the district court had refused to order payments to be made under a War Risk Insurance policy because of this statute, and on the further ground that by passing the statute Congress had in effect withdrawn its consent to be sued on the contracts. The Supreme Court, in an opinion by Mr. Justice Brandeis, held the repeal void and that the government's consent to the suits had not been withdrawn by the statute. The war risk policies are contracts between the federal government and the insured. They are thus in contrast to pensions and other gratuities which may be discontinued by Congress at will without the impairment of constitutional rights. As contracts, the policies are property within the protection of the clause of the Fifth Amendment which provides that property may not be taken without compensation, unless it can be shown that the taking "falls within the federal police power or some other paramount power." This reservation is important. It definitely indicates that just as the police power of the state cannot be bargained away,[18] so the paramount powers of the national government cannot be impaired by the operation of contract rights. No such paramount federal authority has been invoked here for the destruction of these rights. The federal government is as much bound by its contracts as is a private individual. The destruction of these contract rights is therefore void. Congress could, had it chosen, have left these contracts in force and have withdrawn the remedies for their breach by withdrawing the right to sue the government on the contracts. Congress is within its rights in restricting the individual who has a contract with the government to administrative or legislative remedies for the enforcement of those contracts. But there is no evidence here of any intention upon the part of Congress to withdraw the right to sue. The legislative intention was to destroy the contracts outright, and

[16] Other cases involving interpretations of federal judicial power are Missouri v. Fiske, 290 U.S. 18, 1933, dealing with the waiver of state immunity from suit under the Eleventh Amendment, and United States v. Murdock, 290 U.S. 389, 1933, relating to the right of a federal judge to comment upon evidence.

[17] 292 U.S. 571, 1934.

[18] Stone v. Mississippi, 101 U.S. 814, 1880.

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there is no ground for the assumption that Congress would have resorted to the device of withdrawing the legal remedies for the enforcement of the contracts if it had realized that it did not have the constitutional right to disturb the contract rights themselves. Consequently, the contracts remain in force, and the right to sue on them also continues.

A problem in due process of law as it affects the procedure of an administrative body was presented in the case of United States v. Illinois Central Railroad Co.[19] Under the Inland Waterways Corporation Act of 1924, the Interstate Commerce Commission was empowered to issue certificates of public necessity and convenience to those wishing to engage in the business of common carriers upon certain waterways, and thereafter to order connecting railroads to establish reasonable through barge-rail routes and rates. These joint rate orders are issued without preliminary hearing, but before they become final the carriers affected may file complaints in the hearings upon which they assume the burden of proof of showing the rates unreasonable. It is held that the railroad company has not been denied due process of law. The tests of procedural fairness are adequately met by a hearing granted after the rate order has issued, but before it goes into effect.

IV. AMENDMENTS

In United States v. Chambers,[20] the Court takes judicial notice of the fact that the Twenty-first Amendment went into effect on December 5, 1933. Simultaneously, the Eighteenth Amendment became inoperative, together with the Volstead Act and all other legislation depending upon it for constitutional support. The Repeal Amendment contained no saving clause and therefore left Congress without power to continue prohibition legislation in effect for the purpose of finishing prosecutions begun before repeal. Consequently two defendants, one of whom had pleaded guilty to an offense under the Prohibition Act and the other of whom had not yet gone to trial, were both instantly immune to federal prosecution, since their acts had ceased to be crimes under federal law.[21]

V. CONSTRUCTION OF TREATIES—EXTRADITION

The Supreme Court has injected an element of confusion into the law of extradition by breaking away from the long-established doctrine of double criminality in its interpretation of our extradition treaties and conventions with Great Britain. The right of extradition rests exclusively upon treaties, and our own treaties upon the subject have uniformly stipulated, or have been uniformly interpreted to stipulate, that a fugitive from justice may not be extradited unless he is duly charged with an

[19] 291 U.S. 457, 1934. [20] 291 U.S. 217, 1934.

[21] The same result is reached in Massey v. United States, 291 U.S. 608, 1934.

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offense which is a crime under the laws both of the demanding country and of the state in which he has sought refuge. This is called the doctrine of double criminality. As applied to extradition from the United States to Great Britain, for example, it means that the offense must be a crime under English law and also a crime under the laws of the particular state of the Union in which he is apprehended. In Factor v. Laubenheimer,[22] Factor was arrested in Illinois and held for extradition to England upon the charge that he had received money "knowing the same to have been fraudulently obtained." The charge constituted a crime under the English statutes, but not under those of Illinois. Speaking through Mr. Justice Stone, the court, by a six-to-three majority, upheld the extradition of Factor. Its conclusions are supported by an elaborate analysis and interpretation of Anglo-American extradition treaty provisions dating from 1842, and also by resort to the doctrine that treaty provisions are to be construed liberally. Such liberal construction brings the extradition of Factor within the intention of the treaty provisions.[23] The dissenting justices, led by Mr. Justice Butler, attack the soundness of the majority's interpretation of specific treaty provisions and deny the intention of the two governments to abandon the doctrine of double criminality.[24]

B. QUESTIONS OF STATE POWER

I. FOURTEENTH AMENDMENT

1. *Due Process of Law*

a. *Due Process and Business Affected with a Public Interest—Price-Fixing.* The most talked-of case decided at the 1933 term was that of Nebbia v. New York,[25] in which, by a five-to-four majority, the Court upheld the right of the state of New York to regulate the price of milk. A New York statute of 1933 created a milk control board with power, among other things, to "fix the minimum and maximum . . . retail prices to be charged by . . . stores to consumers for consumption off the premises where sold." The Board fixed the price to be charged by stores for a quart of milk at nine cents. Nebbia, the proprietor of a small grocery in Rochester, sold two quarts of milk and a five-cent loaf of bread for eighteen cents and was convicted of violating the Board's order. His contention that the statute and the order of the Board in pursuance thereof denied him the equal protection of the laws and deprived him of

[22] 290 U.S. 276, 1933.

[23] See the excellent article, "The Factor Case and Double Criminality in Extradition," *American Journal of International Law*, Vol. 28, p. 274 (April, 1934).

[24] Three cases dealing with the problem of jurisdiction over federal ceded districts, but establishing no new principles, are Standard Oil Company v. California, 291 U.S. 242, 1934; United States v. Chavez, 290 U.S. 357, 1933; Murray v. Gerrick & Company, 291 U.S. 315, 1934.

[25] 291 U.S. 502 1934.

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liberty and property without due process of law was rejected by the New York court of appeals, and was urged in due course upon the Supreme Court.

In a distinguished opinion, Mr. Justice Roberts, speaking for the majority, upheld the act and the Board's order. He first turned his attention to the history of the legislation and the factual conditions which led to its enactment. An elaborate investigation in 1932 of the milk industry in the state of New York had brought to light the disturbing facts to correct which the statute was passed on recommendation of the investigating body. These facts were, in substance, that milk is an essential article of diet which cannot be stored, that dairying yields at least one-half of the total income from all farm products in New York and represents an investment of about a billion dollars, and that there are elements of instability and risk peculiar to the business which encourage price-cutting and other destructive competitive methods that have had ruinous effects upon many producers and distributors of milk. These risks arise out of or are associated with the fact that in the milk industry there must always be a surplus of milk on hand to assure an adequate supply, a surplus which cannot be effectively stored and which must be carried at a loss. The uneven and inequitable distribution of this loss is accentuated by unfair competitive methods and underselling. These facts together create a condition calling for legislative correction. In the second place, Nebbia's claim that he has been denied the equal protection of the law is briefly examined and rejected. The classifications and distinctions set up by the statute and the Board's order are not on their face arbitrary or unreasonable, nor is there any showing that Nebbia was adversely affected by them.

Finally, Mr. Justice Roberts addresses himself to the crucial issue of due process of law, and finds no infringement of that far-reaching guarantee. His argument runs as follows. The state of New York, for over seventy years, has regulated the milk industry in numerous ways, the rigor of those regulations being second in degree only to those imposed upon the railroads. The only restrictions which the due process clause of the Fourteenth Amendment imposes upon such exercises of the state's police power are that "the law shall not be unreasonable, arbitrary, or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained." It follows that "a regulation valid for one sort of business, or in given circumstances, may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of each regulation depends upon the relevant facts." It seems obvious that the demoralizing conditions and unfair trade practices prevailing at present in the milk industry would amply justify further regulation and control through the police power of the state. Is

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this regulation and control a denial of due process of law merely because it takes the form of price regulation? The appellant's argument is that price regulation is constitutional only as applied to businesses affected with a public interest. And a business affected with a public interest is characterized (in the words of the Court) as one "in which property is devoted to an enterprise of a sort which the public itself might appropriately undertake, or one whose owner relies on a public grant or franchise for the right to conduct the business, or in which he is bound to serve all who apply; or a business in its nature a monopoly."

Mr. Justice Roberts admits frankly that the milk industry is not a public utility, that there is no element of monopoly in it, and that it does not depend upon any public grant or franchise. It is not, in short, a business affected with a public interest, as that concept has been developed in previous decisions of the Court. He then proceeds to reject entirely the principle that price regulation may extend only to businesses affected with a public interest in the technical and orthodox sense described above, and to base the majority's position upon the simple and wholly logical basis that price regulation is merely a phase of the police power of the state, to be resorted to if and when the public welfare demands it, and to be exercised under the general restrictions imposed by due process of law upon the police power. This portion of the opinion merits quotation at some length. "It is clear that there is no closed class or category of businesses affected with a public interest, and the function of the courts in the application of the Fifth and Fourteenth Amendments is to determine in each case whether circumstances vindicate the challenged regulation as a reasonable exertion of governmental authority or condemn it as arbitrary or discriminatory. . . . The phrase 'affected with a public interest' can, in the nature of things, mean no more than that an industry, for adequate reason, is subject to control for the public good. In several decisions of this court wherein the expressions 'affected with a public interest,' and 'clothed with a public use,' have been brought forward as the criteria of the validity of price control, it has been admitted that they are not susceptible of definition and form an unsatisfactory test of the constitutionality of legislation directed at business practices or prices. These decisions must rest, finally, upon the basis that the requirements of due process were not met because the laws were found arbitrary in their operation and effect. But there can be no doubt that upon proper occasion and by appropriate measures the state may regulate a business in any of its aspects, including the prices to be charged for the products or commodities it sells." The price regulations established for the milk industry in New York are not arbitrary, and therefore do not offend against due process of law.

A vigorous dissenting opinion was written by Mr. Justice McReynolds

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and concurred in by Justices Van Devanter, Sutherland, and Butler. In this opinion, three points are made. First, it is assumed that the price regulations under review are based upon the theory of emergency power, and a strong attack is launched against the idea that an emergency can create governmental power. Secondly, the previous doctrine of the Court is restated that price regulation can be resorted to validly by the state only in respect to businesses affected with a public interest, and the traditional characteristics of such businesses are again described. To break down these restrictions upon price control "would put an end to liberty under the Constitution." Finally, it is urged that the regulations set up in this case will not accomplish the ends for which they were designed, and are therefore arbitrary and without justification.

It may be noted that the opinion of the majority in the Nebbia case does not mention the existence of an emergency or rest the decision upon the existence of emergency conditions of a temporary character. The law itself was undoubtedly an emergency measure in the broad sense of that term and was limited to one year. But there is nothing in the opinion of Mr. Justice Roberts which would not apply with equal force to a permanent price-fixing statute, assuming the continuance of conditions making such regulation reasonably necessary to the protection of the public welfare. The decision further performs the valuable service of discarding the cumbersome, arbitrary, judge-made concept of a "business affected with a public interest" as the test of the validity of price control in favor of the lucid, simple, and logical principle that price control is merely one phase of the police power of the state and subject only to the general restrictions with which due process of law surrounds the exercise of that broad authority. The doctrine embodied in Mr. Justice Stone's dissenting opinion in Ribnik v. McBride[26] and Mr. Justice Brandeis' dissenting opinion in New State Ice Co. v. Liebman[27] has now become the doctrine of the Court.

In Puget Sound Power and Light Company v. Seattle,[28] it is held that the city of Seattle, which owns and operates a light and power plant of its own, may validly impose a privilege tax of three per cent upon the gross income of the plaintiff company for the privilege of selling light and power in active competition with the city's own plant. This involves no denial of equal protection or due process of law. There is no doubt as to the right of the city to engage in the business or to levy a tax to support it. Clearly the city occupies a different status from that enjoyed by the private company, and the law may make that difference the basis of discrimination in the city's favor. The company has no constitutional pro-

[26] 277 U.S. 350, 1928. For comment, see this REVIEW, Vol. 23, p. 92.
[27] 285 U.S. 262, 1932. For comment see this REVIEW, Vol. 27, p. 51.
[28] 291 U.S. 619, 1934.

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tection against the competition of the city, such competition being one of the risks which the company assumed in entering the field. The company's franchise contract is not impaired by the tax, since "surrender of the state's power to tax the privilege is not to be implied from the grant of it."[29]

b. *Due Process and State Police Power.* None of the due process decisions relating to the police power of the states is of outstanding significance. Peterson Baking Company v. Bryan[30] upheld the 1931 Nebraska statute regulating the weight of loaves of bread. It will be recalled that an earlier statute passed for the same purpose was declared invalid in Burns Baking Company v. Bryan.[31] The opinion in both cases was written by Mr. Justice Butler, and a comparison of the two decisions emphasized the extent to which due process problems depend for their solution upon factual differences which may be merely differences of degree. In the first and invalid statute, the weight of loaves of bread was fixed by law, and "tolerances" or variations from the legal weight of not more than two ounces per pound were permitted, while the time within which the weight of the loaves must be maintained was fixed at twenty-four hours after cooling. The tolerances and time limit were both held by the majority to be arbitrary in view of evidence that bakers could not reasonably comply, evidence deemed by the dissenting justices to be inadequate and unconvincing. In the later statute, a tolerance of three ounces per pound is allowed and the time limit for the maintenance of weight is cut to twelve hours. These regulations are found to be reasonable, and the statute is therefore a valid police regulation.

An Arkansas statute permits the beneficiary of an insurance policy to collect from the insurance company twelve per cent damages and attorney's fees if the company, after a loss, fails to make the payments stipulated by the policy within the required time. In Life & Casualty Insurance Company v. McCray,[32] this statute is held not to deny the company's rights under the Fourteenth Amendment, even when the payment had been withheld by the company in good faith on the assumption that the claim against it was invalid. The social policy which supports subjecting insurance companies to these special burdens is stated by Mr. Justice Cardozo as follows: "Dependents left without a breadwinner will be exposed to sore distress if life insurance payments are extracted slowly and painfully, after costly contests in the courts."

A statute of Mississippi passed in 1905 provides that the bond of a

[29] Two cases involving due process problems relating to utility rates are Dayton Power & Light Company v. Public Utilities Commission, 292 U.S. 290, 1934; and Columbia Gas & Fuel Company v. Public Utilities Commission, 292 U.S. 398, 1934.

[30] 290 U.S. 570, 1934.

[31] 264 U.S. 504, 1924. For comment, see this REVIEW, Vol. 19, p. 62.

[32] 291 U.S. 566, 1934.

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contractor guaranteeing to an owner the faithful performance of a building contract shall inure to the benefit of persons furnishing materials and labor even in the face of stipulations in the bond intended to exclude them from such liens. This statute was held valid in Hartford Accident & Indemnity Company v. Nelson.[33] For many years the law has recognized the propriety of extending prior liens to laborers and material-men, and such liens are deeply rooted in social policy and justice. The owner of the building is not injured by the creation of the priority, for the bond has thus assumed the risk of a lien which otherwise would have been shifted back onto his shoulders in case the contractor failed in his obligations to laborers and material-men. There is no impairment of the obligation of the contract because the contract was made long after the enactment of the statute.

c. *Due Process and State Taxation.* In Magnano Company v. Hamilton,[34] the Supreme Court again faced the question of the validity of destructive taxation—this time destructive state taxation. A statute of Montana levied a tax of fifteen cents a pound upon all butter substitutes sold in the state. Exceptions were made to care for provisions of federal laws and shipments made in interstate commerce. The appellants manufacture a sort of oleomargarine which is admitted to be harmless, wholesome, and nutritious. They claim that the act is destructive and prohibitive, and that since its enactment they have made no effort to sell their product. They seek an injunction against the enforcement of the law. In upholding the validity of the tax, the Court, speaking through Mr. Justice Sutherland, examines in order the constitutional objections urged against the law as follows. First, the act does not deny the equal protection of the laws, since the difference between butter and the substitutes for it is sufficient to form the basis of reasonable classification. Second, the claim that the tax was not levied for a public purpose is unsound, since the test of public purpose applies only to the purposes for which the money raised by taxation is to be used. Third, the tax does not impose any burden on interstate commerce. Fourth, it does not interfere with the federal fiscal powers by withdrawing a lucrative source of federal revenue. Such interference, if any, is "so speculative and remote" as to afford no basis for relief.

Finally, the tax, though destructive, does not take property without due process of law. The argument here is made up in the main of analogies drawn from the field of federal taxation. "Except in rare and special cases," says the opinion of the Court, "the due process of law clause contained in the Fifth Amendment is not a limitation upon the taxing power conferred upon Congress by the Constitution." There is no reason for applying a different rule to the states. Due process becomes applicable

[33] 291 U.S. 352, 1934. [34] 292 U.S. 40, 1934.

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only when the act is so arbitrary as to force the conclusion that "it does not involve an exertion of the taxing power," but amounts to a confiscation of property. But the Court must be very slow to interpret a taxing statute in this way, since collateral legislative motives are beyond judicial scrutiny. The Veazie Bank Case[35] and McCray v. United States[36] are both precedents for the doctrine that a tax is not void merely because it is destructive. The present tax is distinguished from the child labor tax held void in Bailey v. Drexel Furniture Co.[37] because the child labor tax "constituted an attempt to regulate a matter exclusively within the control of the state, and . . . although the exaction was called a tax it was, in fact, not a tax but a penalty exacted for the violation of the regulation." The tax on butter substitutes is plainly a tax. There is no suggestion that it is anything else. "It must be construed, and the intent and meaning of the legislature ascertained, from the language of the act, and the words used therein are to be given their ordinary meaning unless the context shows that they are differently used." If the tax had been five cents per pound, no question would have been raised, and this, in itself, shows that the attack upon its validity rests solely upon the basis of its excessive rate, and the courts have uniformly rejected this test of the validity of taxing acts.

The Magnano case, which relies upon and thus reaffirms and reestablishes the McCray case of 1904, shows that the Court desires to eat its cake and keep it too in the matter of the validity of destructive taxation. No amount of logical analysis will disclose any inherent differences in kind between the child labor tax and the oleomargarine taxes upheld in the McCray case and now in the Magnano case. In both cases the legislative intention was regulation and destruction per se, and all intelligent people, including the Court, were well aware of that fact. But the Court preserves two different techniques for dealing with such statutes. When it wishes to uphold the statute, it utilizes the doctrine of the McCray and Magnano cases, which may be called the doctrine of judicial obtuseness, and refuses to see or know anything about the tax which does not appear in the language of the act. If, however, the act pushes too far and impinges upon interests which the Court feels are entitled to protection, it falls back upon the doctrine of the child labor tax case, takes judicial notice of the palpable legislative intention to destroy rather than to raise money, and declares the act void on the ground that it is not a tax at all but a regulation.[38]

[35] Veazie Bank v. Fenno, 8 Wallace 533, 1869.

[36] 195 U.S. 27, 1904.

[37] 259 U.S. 20, 1922.

[38] See the present writer's analysis of this whole problem in "Social and Economic Control Through Federal Taxation," *Minnesota Law Review*, Vol. 18, p. 759 (June, 1934).

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In Pacific Telephone and Telegraph Company v. Seattle,[39] it was held that a municipal license or excise tax measured by the gross income of a telephone business within the city was not based on a measure so vague and indefinite as to deny due process of law. The company's contention was grounded upon the difficulty of segregating the business which it did in Seattle from its interstate or out-of-city business. The local administrative officers charged with collecting the tax had not made any interpretations of the ordinance, and the Court declined to hold that a reasonably clear segregation of the local business could not and would not be made.[40]

d. *Due Process and Criminal Procedure.* A case of more than casual interest is that of Snyder v. Massachusetts[41] in which, by a five-to-four majority, the Court held that a view of the scene of a crime made by the judge and jury in the absence of the defendant who had made demand that he be present is not a denial of due process of law. Snyder was on trial for first degree murder. The prosecution made a motion for a view of the filling station at which the murder was committed. The prisoner was denied the right to be present, but the view was made by the judge, counsel for both sides, and the jury. A stenographic record was made and the judge charged the jury that "the view, the testimony given by the witnesses, and the exhibits comprise the evidence that is before you." The defendant was convicted. An extremely interesting opinion for the majority by Mr. Justice Cardozo examines in great detail the requirements of due process of law in the field of criminal procedure. It is clear that due process does not require specific forms of procedure. States are free to vary their procedure as long as they do not offend "some principle of justice so deep rooted in the traditions and conscience of our people as to be ranked as fundamental." In accordance with this doctrine, it has been held that trial by jury, grand jury indictment, and protection against self-incrimination may be abolished without denial of due process. "So far as the Fourteenth Amendment is concerned, the presence of a defendant is necessary to due process to the extent that a fair and just hearing would be thwarted by his absence, and to that extent only." The view is not actually a part of the trial, and the prisoner's absence therefrom under all the circumstances cannot be said to be so flagrantly unjust that the requirements of due process of law have been violated. "Due process requires that the proceedings shall be fair, but fairness is a relative not an absolute concept. It is fairness with reference to particular conditions or particular results." The opinion closes with this trenchant statement: "Not all the precepts of conduct precious to the

[39] 291 U.S. 300, 1934.

[40] Other cases involving state taxation under the Fourteenth Amendment are Utley v. St. Petersburg, 292 U.S. 106, 1934, and Concordia Fire Insurance Company v. Illinois, 292 U.S. 535, 1934.

[41] 291 U.S. 97, 1934.

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hearts of many of us are immutable principles of justice, acknowledged *semper ubique et ab omnibus*, wherever the good life is a subject of concern. There is danger that the criminal law will be brought into contempt—that discredit will even touch the great immunities assured by the Fourteenth Amendment—if gossamer possibilities of prejudice to a defendant are to nullify a sentence pronounced by a court of competent jurisdiction in obedience to local law, and set the guilty free."

A forceful dissent was entered by Mr. Justice Roberts, with whom Justices Brandeis, Sutherland, and Butler concurred. In their opinion, the presence of the accused at every stage of his trial is of the very essence of due process of law, and the view held under the circumstances of this case is part of the trial. The fact that in this case the absence of the accused did not actually work to his disadvantage does not condone the violation of his constitutional rights. While in respect to property rights due process of law is accorded if the procedure followed works no actual injury, a different test obtains in criminal procedure. "Where the conduct of a trial is involved, the guarantee of the Fourteenth Amendment is not that a just result shall have been obtained, but that the result, whatever it be, shall be reached in a fair way. Procedural due process has to do with the manner of the trial; dictates that in the conduct of judicial inquiry certain fundamental rules of fairness be observed; forbids the disregard of those rules, and is not satisfied if, though the hearing was unfair, the result is just."

e. *Due Process in Civil Procedure.* A Virginia statute of 1930 permits the highway commissioner, without prior notice and hearing, to order a railroad company to abolish any designated grade crossing and construct an overhead when, in his opinion, public safety and convenience require it. The opinion of the commissioner upon the question of necessity and convenience is final; upon petition filed within sixty days, the order may be modified as to the plans proposed, but there is no review of the fundamental question of necessity. There is no provision for the orderly and regular review by any court of the commissioner's order, although a court of equity is empowered to intervene if "arbitrary" action can be shown. In Southern Railway Company v. Virginia *ex rel.* Shirley,[42] this procedure was attacked as denying due process of law to the railroad, which had been ordered to abolish a grade crossing. In an opinion by Mr. Justice McReynolds, the Court held the procedure lacking in due process. Due process is denied when property is taken through an administrative procedure which makes a final determination of facts without notice and hearing. There is absent in such procedure all assurance that the findings of facts will be made in the light of the evidence or in accordance with rules of evidence. The case differs from those in which, in emergency

[42] 290 U.S. 190, 1933.

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situations, administrative officers have been allowed to make summary rulings subject to subsequent review by the courts. In those cases there were present elements of public necessity for haste which do not prevail here. That a more deliberate procedure would not jeopardize the public interest is shown by the fact that sixty days are allowed for petitions to modify the commissioner's order. The right to seek an injunction to restrain arbitrary action by the commissioner does not meet the requirements of due process, because even then the plaintiffs would have no knowledge of the grounds upon which the commissioner acted. Chief Justice Hughes and Justices Stone and Cardozo dissented on the ground that there is adequate protection of the railroad's rights in the subsequent hearing allowed in an action to restrain arbitrary orders.

II. THE CONTRACT CLAUSE

Perhaps more far-reaching in its implications than the Nebbia case[43] was the decision of the Court in Home Building & Loan Association v. Blaisdell,[44] in which the Minnesota Mortgage Moratorium Act was upheld against attack under the contract clause by a five-to-four vote in a bitterly divided court. The act was passed in April, 1933. It declared an emergency to exist and provided that relief may be had through regular judicial proceedings with respect to foreclosures of mortgages and sales of execution of real estate. Such relief could take the form of postponement of the sales and the extension of the period of redemption. The act was to remain in effect until May 1, 1935, and no extensions or postponements were to run beyond that date. In ordering any extension of the period of redemption from a foreclosure sale, the court was authorized to order the payment to the holder of the mortgage of a reasonable income or rental value on the property during the period of the extension, such payments to be applied against taxes, insurance, interest, and mortgage indebtedness. Blaisdell owned a lot in Minneapolis which he mortgaged to the Home Building & Loan Association. In May, 1932, the mortgage was foreclosed and the Association bought the property in for $3,700. Under the Minnesota law, the period of redemption from the foreclosure would expire on May 2, 1933. Blaisdell accordingly applied for relief under the act, alleging that due to the depression he could not renew the loan or redeem the property within the period then provided, and that unless the period of redemption were extended he would lose a property having a present market value of $6,000 for a loan, with interest, amounting to about $4,000. The court accordingly extended the period of redemption to May 1, 1935, and ordered Blaisdell to pay $40 per month during that period to be applied on taxes, insurance, interest, and principal. The issue was squarely raised whether the mortgage

[43] *Supra*, note 25.

[44] 290 U.S. 398, 1934.

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moratorium statute impaired the obligation of the mortgage contract in violation of the contract clause.

In an elaborate opinion by Chief Justice Hughes, the act is held not to impair the obligation of contracts. The reasoning is as follows. First, the mortgage indebtedness is not impaired by the statute but remains intact. All that is done is to extend the period of redemption for a limited period of time during which the mortgagee-purchaser is compensated by receipt of the rental value of the property. This is a very mild interference with pre-existing rights under the mortgage. Second, emergencies do not create governmental power, but they may furnish the occasion for the exercise of such power. This is developed at some length. Third, the contract clause, by its history and interpretation, is shown to contain a prohibition which is not absolute. "It is not to be read with literal exactness like a mathematical formula." The meaning of the clause has been developed by judicial construction, and flexibility has been given to its provisions. Changes in the remedies under contracts have been permitted, and existing laws have been read into the contracts created under their provisions. Fourth, "Not only are existing laws read into contracts in order to fix obligations as between the parties, but the reservation of essential attributes of sovereign power is also read into contracts as a postulate of the legal order. The policy of protecting contracts against impairment presupposes the maintenance of a government by virtue of which contractual relations are worth while—a government which retains adequate authority to secure the peace and good order of society." The state cannot bargain away its police power. Within the range of the reserved power of the state to protect the vital interests of the community falls the power to interpose with respect to the enforcement of contracts in times of great public calamity such as fire, flood, earthquake. If state power "exists to give temporary relief from the enforcement of contracts in the presence of disasters due to physical causes such as fire, flood, or earthquake, that power cannot be said to be non-existent when the urgent public need demanding such relief is produced by other and economic causes." Judicial acceptance of this principle is seen in the emergency rent cases.[45] An emergency existed in Minnesota. The legislation passed was adapted to the legitimate end of relieving that emergency and was appropriately designed to accomplish that end. The conditions under which the period of redemption may be extended are in themselves reasonable. The whole program, in short, constitutes a legitimate exercise of the state's police power and consequently does not violate the contract clause of the Constitution. For the reasons mentioned, it does not violate the due process clause, and the classifications upon which it is built are

[45] Block v. Hirsh, 256 U.S. 135, 1921, and Marcus Brown Holding Company v Feldman, 256 U.S. 170, 1921.

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not so arbitrary as to amount to a denial of the equal protection of the laws.

A long and rather vehement dissenting opinion was written by Mr. Justice Sutherland, with whom Justices Van Devanter, McReynolds, and Butler concurred. The opinion opens with the statement that "few questions of greater moment than that just decided have been submitted for judicial inquiry during this generation," and then launches into a vigorous attack upon the doctrine of emergency power. Constitutional provisions cannot mean one thing at one time and another thing at another time, and the existence of an emergency cannot make legitimate the relaxing of constitutional guarantees. There follows a long and careful history of the adoption of the contract clause and its subsequent interpretation from which Mr. Justice Sutherland draws the conclusion that it was intended by its framers to be effective in just such periods of economic crisis as that which now prevails. It was designed to prevent legislative relief for debtors in distress. The opinion closes with the observation that "if the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned."

An Arkansas statute, purporting to be passed to meet emergency conditions due to the depression, exempted all moneys paid or payable to beneficiaries under insurance policies extending life, sick, accident, or disability benefits from liability or seizure under judicial process and provided that they might not be subjected to the payment of any debts. In W. B. Worthen Company v. Thomas,[46] the constitutionality of this statute was attacked under the contract clause in an action to garnishee the proceeds of a life insurance policy for the payment of debts incurred before the statute went into effect. The Court, again speaking through Chief Justice Hughes, held the statute void as an impairment of the obligation of the debt contracts. The case is carefully distinguished from the Home Building & Loan Association v. Blaisdell decision on the ground that the exemption created by the statute is unlimited, and that it in point of time is not limited to the continuance of the emergency and sets up "no conditions apposite to emergency relief." The four justices who dissented in the Minnesota case concur in this case, on the ground that there is no sound distinction between the two laws and both should be held bad.

III. STATE AND FEDERAL RELATIONS

1. *State Police Power and Interstate Commerce*

Three cases during the present term involved the relationship of the state police power to interstate commerce, but none of them deviated from established principles. Hicklin v. Coney[47] held that a state in the exercise

[46] 292 U.S. 426, 1934.

[47] 290 U.S. 169, 1933.

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of its power to regulate the use of its highways might impose regulations upon private contract carriers even when such carriers are engaged in interstate commerce. These regulations may take the form of reasonable license fees and the requirement that the carriers file insurance policies guaranteeing protection against losses resulting from injuries to persons and property. In International Milling Company v. Columbia Transportation Company,[48] a suit in a state court against a foreign corporation engaged in interstate commerce upon a cause of action arising outside the state is held not to involve an undue burden upon interstate commerce. In Gilvary v. Cuyahoga Valley Railroad Company,[49] it is held that, while congressional power over commerce is exclusive within the fields of active regulation, "Congress may so circumscribe its regulation as to leave a part of the subject open to state action." Thus an interstate railroad may validly contract with its men that injuries suffered while the employees are engaged in intrastate commerce shall be covered by the state workmen's compensation act, and that recovery by the employee under the federal safety appliance acts shall be barred. This involves no conflict with federal regulatory power.

2. *State Taxation and Interstate Commerce*

In Minnesota v. Blasius,[50] cattle were purchased by the defendant from outside the state, were held in St. Paul pending the finding of a customer for resale, and were almost immediately resold to purchasers outside the state. During the brief period of time in which the cattle were "at rest" in Minnesota, they were assessed for personal property taxation by the state authorities. The contention of Blasius that this tax was imposed upon and burdened interstate commerce was rejected by the Supreme Court. The test is one of "continuity of transit," and the evidence indicates that that continuity had been broken in the present case. A brief period occurred during which the interstate transportation which brought the cattle into the state had ended and the interstate transportation which later removed them from the state had not begun. During that interval the cattle were a part of the general mass of the property in the state and as such were subject to taxation by the state. In Johnson Oil Refining Company v. Oklahoma *ex rel.* Mitchell,[51] the state was denied the right to tax as personal property the entire fleet of tank cars of a foreign oil-refining corporation and used by it in both local and interstate commerce. Its taxing jurisdiction was held to extend only to the number of cars which on an average are physically present within the state. A municipal license tax upon every person engaged in the buying and selling of cotton does not burden interstate commerce, even though

[48] 292 U.S. 511, 1934.
[49] 292 U.S. 57, 1934.
[50] 290 U.S. 1, 1933.
[51] 290 U.S. 158, 1933.

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the cotton is purchased with a view to shipment to another state or country. This is the case of Chassaniol v. Greenwood.[52]

3. *State Taxation of Federal Agencies and Instrumentalities*

A state may properly levy a five-cent tax upon gasoline sold to a contractor who is carrying on work for the federal government. The contractor is not a government instrumentality, but is a private person performing a service to the government. As such, his property and materials are subject to non-discriminatory state taxation, and no burden is thereby imposed upon any federal interest or agency. This is the case of Trinity-farm Construction Company v. Grosjean.[53] A similar result is reached in Federal Compress and Warehouse Company v. McLean.[54] Here the state of Mississippi levied a license tax on the privilege of operating a cotton warehouse. The warehouse company is operating under a federal license issued under the Federal Warehouse Act of 1916 and claimed immunity from state taxation upon its privilege to do business on the ground of state interference with a federal privilege. The claim of immunity was rejected by the Court. Said Mr. Justice Stone: "It can no longer be thought that the enjoyment of a privilege conferred by either the national or a state government upon the individual, even though to promote some governmental policy, removes him from the taxation by the other of his property or business used or carried on in the enjoyment of the privilege or of the profits derived from it. . . . The mere extension of control over a business by the national government does not withdraw it from a local tax which presents no obstacle to the execution of the national policy."

4. *Jurisdiction of State Courts under Federal Employers' Liability Law*

The rule laid down in Second Employers' Liability Cases[55] that a state court of competent jurisdiction may not validly decline to entertain suits under the Federal Employers' Liability Act merely because the suit is brought under a federal law is reaffirmed in McKnett v. St. Louis & S. F. Railway Company.[56] In this case an action was brought against the railroad in an Alabama court under the federal statute for an injury suffered by the plaintiff in Tennessee. The railroad is a foreign corporation doing business in Alabama. The state court was required to hear the case. Speaking for the Court, Mr. Justice Brandeis said: "The power of a state to determine the limits of the jurisdiction of its courts and the character

[52] 291 U.S. 584, 1934.
[53] 291 U.S. 466, 1934.
[54] 291 U.S. 17, 1934.
[55] 223 U.S. 1, 1912.
[56] 292 U.S. 230, 1934.

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of the controversies which shall be heard in them is, of course, subject to the restrictions imposed by the Federal Constitution." The comity clause requires that a state give citizens of other states substantially the same right of access to its courts that it gives its own citizens. "While Congress has not attempted to compel states to provide courts for the enforcement of the Federal Employers' Liability Act, the Federal Constitution prohibits state courts of general jurisdiction from refusing to do so solely because the suit is brought under a federal law."

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National Parties and Local Politics. It is curious that the question with which, of all others, every participant in local politics finds himself most persistently confronted—and it is a truism that by far the greatest part of our political lives are concerned with local affairs—should be given so little attention in treatises on American government. I refer to the problem of the relation between national political parties and state and local politics.

The problem presents itself under two aspects, in one sense separate, though in reality closely interwoven with each other. There is first the anomaly that local issues seem so far removed from the platforms of the organizations, the national parties, through which the often perplexed and embarrassed voter must express himself in the performance of his ordinary electoral duties in the state or the locality; and there is, secondly, the question faced by every would-be reformer of local government, as to whether the desired reforms can best be brought about through the national party organizations or through separate locally organized groups.

In a recent conference on present-day America, attended by some one hundred and forty women, the persistent difficulty of this problem was borne in anew upon the writer by the fact that the query most often raised for discussion was the question propounded above as the second aspect of the larger problem—the question, that is, as to how best to set about instituting local governmental reform. As a result of these questionings, I have made it a matter of special interest to investigate the literature on the subject, with some illuminating if not clarifying results, in the often blurred light of which the perplexity of the ordinary citizen can hardly be a matter of surprise.

A perusal of the standard general textbooks on American government furnishes little of a satisfactory nature. Many of these texts fail even to mention the problem, while those that do mention it content themselves for the most part with statements that leave the matter largely where it stood at the beginning. The argument of party efficiency and organization is presented as an explanation, if not a justification, for the conduct of local politics by the national parties; the fact is urged that for the solution of an increasing number of social problems the locality must look to the larger units, nation and state, for assistance, without, however, any proof adduced that division of opinion on these problems—poverty, child labor, sewage disposal, or even immigration, naturalization, and the Americanization of aliens—will necessarily coincide with the positions taken on the issues that divide, if there be issues that do divide, the major national political parties. Historical reasons for the carrying on of state and local government by the national parties are cited; and the general textbook

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commonly leaves one with the impression of a condoning of the far-reaching identity of party lines in national, state, and local politics, with little effort made to answer the questions of logic and of practice that inevitably arise.

More surprising than the unsatisfying treatment of this subject in the general texts on American government is the almost if not quite total absence of all mention of it in the standard texts on American political parties. Many of the texts on state government in the United States, also, omit all reference to the problem. The few that do refer to it deal with it variously. In only two of the standard texts investigated did the writer find the question of the relation of state politics to national party organization squarely faced, and in neither of these was the treatment comprehensive. Some interesting observations are made in these discussions; but in no instance is any one of them developed in such a way as to bring out its full significance in its relation to this problem. The suggestion, is offered, for instance, that if party lines in this country were drawn on different and more basic and more permanent issues, the situation might be less anomalous and less difficult, and reference is made to the history of party politics in British local government, a history in some ways the reverse of our own. Contrary to the experience of the United States, national party lines in English local elections were in the beginning very loosely drawn, until the rise of the Labor party to power. When that party arose, with its claim that there was no unit of government to which its program of social betterment did not apply, it naturally entered the local field, and the other two parties were forced to do likewise in self-defense. Outside of England, it is pointed out, the European experience has been very much like our own; which is probably largely explained by the fact, not brought out in these treatises, that in most Continental European countries the Social Democratic and analogous parties go well back to the beginnings of party government. Much more, in the opinion of the writer, might have been made of these interesting observations.

On the whole, then, the textbooks on state government, like those on national government, would seem to be generally in agreement with the conclusion of Austin Macdonald in his *American State Government and Administration* (p. 152) that "it seems likely . . . that national affairs will continue to overshadow matters of purely local concern, and that local issues will be decided along national party lines in the future as they have been in the past." The lack of logic in this situation and the resulting difficulties for the conscientious voter, while recognized, do not appear greatly to concern the writers of these texts. The efforts in some states, while preserving identity of party organization, to separate state and national issues by holding state and local elections on different days from national elections, and in different years, and by encouraging non-

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partisan elections for state officials, are on the whole passed over lightly, and dismissed rather summarily as having met with "limited success."

During the years 1928 to 1932, the *National Municipal Review* carried a short series of articles in which was analyzed the constitution of the national parties in some of the states; but these articles, while they tended to confirm the existence of the anomalous situation to which we have been referring, contained little in the way of helpful comment or suggestion.

The textbooks on municipal government and administration in the United States come to closer grips with the problem, doubtless because, unlike the larger units of local government, the cities have made actual practical efforts to cope with the situation. Yet here, also, little real satisfaction is to be got from the general texts. All of the texts that discuss the question admit the fundamental illogic of running city politics along national party lines; yet all maintain that no alternative—neither non-partisanship, national or municipal, nor the setting up of municipal parties, nor fusion—has been permanently successful; and all maintain that in the great majority of cases at home and abroad municipal elections are, as a matter of fact, conducted by the national party organizations. "From the point of view of pure reason," says Professor Reed, "national political parties should have nothing to do with city government. The issues of national and local politics are absolutely dissimilar. The World Court, the tariff, or farm relief, do (*sic*) not split the public along the same lines as the street railway franchise on Market Street, the Belle Isle bridge, or the ownership of the electric light plant. There is no such thing as Democratic sewer pipe or Republican pavement. It makes no difference whether the city engineer believes in watchful waiting in international affairs provided he watchfully inspects the concrete that the construction company is pouring on the viaduct."[1] Professor Reed admits also that "national party activity in city affairs" has sometimes reduced "city politics to the lowest depths of degradation."[2] Yet he, along with others, is very skeptical of any other procedure, and he seems to hold that probably the best that can be done is to "remove every artificial aid to party domination, such as partisan primaries and

[1] *Municipal Government in the United States* (New York, 1934), p. 237.

[2] *Ibid.*, pp. 55–56. Cf. also statements of *Commission to Devise a Plan for the Government of Cities in the State of New York*, p. 13; of N. Matthews Jr., in *The City Government of Boston*, p. 178; of Brand Whitlock, in *The Evil Influence of National Parties and Issues in Municipal Elections*; in the *Conference for Good City Government*, 1907, p. 193; of Robert E. Cushman, in *Non-Partisan Nominations and Elections* in 106 *Annals of Am. Acad. of Pol. and Soc. Sci.*, p. 83 (March, 1923); and of Charles Evans Hughes, in *Conditions of Progress in Democratic Government*, pp. 111–112—all cited in Charles M. Kneier's *City Government in the United States* (New York, 1934), pp. 237–239.

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party designations on the ballot." "If," he continues, "we make it as easy as may be for the voter to be independent, we at least put a premium on good party behavior. A reasonable independence in the voter is the best means of forcing the local organizations of the parties to take strong positions for municipal improvements and better municipal service."[3]

It is pointed out in the *Report of [the] Commission [appointed by the Governor] to Devise a Plan for the Government of Cities in the State of New York* that "it is rare indeed that any . . . questions [of general principles or methods of policy], or any [questions] upon which good men ought to differ arise in connection with the conduct of municipal affairs." "Good men," continues the Report, "cannot and do not differ as to whether municipal debt ought to be restricted, extravagance checked, and municipal affairs lodged in the hands of competent and faithful officers."[4] "The fact that the activities of the city are primarily of an administrative and business nature," says Reed, "brings it to pass that they do not invite a division into permanent municipal parties. . . . Such issues as there are usually relate to the adoption of concrete projects and are seldom the same from one election to the other. Each new issue is the occasion for a new alignment of public opinion."[5] Munro emphasizes the absence of significant and permanent issues upon which to build a local party organization. "There are," he says, "no divergences of popular opinion upon the broader questions of municipal policy; everybody professes to agree that the city's affairs should be honestly and economically managed, that good appointments should be made. . . . But when it comes to determining the specific application of these principles, there is no approach to unanimity. Even within the ranks of a single organization, these differences of opinion will appear and destroy harmony. . . . And the trouble is that the problems of municipal government are so continually and rapidly changing that no traditions can easily be formed. A civic program framed today is out of date the day after tomorrow."[6]

Failing the possibility, according to the text writers, of the permanent organization of municipal parties, moreover, the attempt in the cities to break up the national party organizations is in their opinion apt to result only in the formation of religious, racial, or economic factions, the effect of which on city government is more baneful than that of the national parties themselves. "With party lines fading," we read in Munro, "other divisions come into view. With the broader political issues thrust into the background, the temptation to divide on racial, religious, social, or economic lines is very great. Appeals to prejudice take the place of appeals to reason, the campaign becomes a melée of personalities, recriminations,

[3] Reed, *op. cit.*, p. 239. [4] Kneier, *op. cit.*, p. 237. [5] Reed. *op. cit.*, pp. 55–56.
[6] W. B. Munro, *Municipal Government and Administration* (New York, 1923), Vol. 1, p. 298.

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innuendo, and slander. It would be difficult to find a city, the world over, in which the obliteration of party lines has raised local politics to a higher plane."[7]

These comments, it is clear, leave one with at best a negative, and at that a not very satisfactory negative, solution of the problem that concerns us. Few, if any, of the general studies of municipal government lay any appreciable stress on the close relationship between the non-partisanship in municipal affairs which to some degree their authors are willing to accept and desirable reforms in the structure of municipal government. While, as seen in the passage quoted from Reed, they recognize that city government is primarily of an administrative and business nature, and draw the conclusion that it therefore does not lend itself to the organization of permanent political parties, and while in quite distinct sections of their treatises they discuss the advantages of the newer forms of city government, they fail to strike the positive note that they might strike were they to emphasize the fact that inasmuch as these newer forms have as their main objective a business-like municipal administration, they are consciously and peculiarly adapted to the elimination, in the largest degree possible, of party politics from the conduct of municipal affairs. This close relationship is to be seen not only in the "non-partisan" elections which are usually an integral part of the newer plans of city government, but also in the very great powers given to the city manager, who is presumably a wholly non-partisan appointee, and in many other features of the newer plans.

Absent though it is from most of the texts, this correlation of objectives is admirably brought out by White in *The City Manager*.[8] Having surveyed the increasing tendency on the part of the people of the United States, as of other countries, to feel that they must effectively control, even own and operate, public utilities, and that they must therefore greatly expand the services to be rendered by government, and having noted the resulting concentration of executive and administrative power and responsibility, he remarks: "This point of view coincides with a gradually emerging preference for a non-partisan administration. . . . These changes are proceeding along with another profound alteration in our public affairs, the decline of the organized political party. The 'machine' has all but disappeared in the small and medium-sized cities. . . . What the whole world is witnessing is the emergence of government by experts. . . . It is indeed a fair question whether we shall not be forced to reinterpret American government as a means for utilizing the services of experts in the performance of ends democratically defined. The council-manager plan has an intimate relation to these fundamental tendencies.

[7] Munro, *op. cit.*, Vol. 1, pp. 297–298.

[8] Leonard D. White, *The City Manager* (Chicago, 1927).

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It is the most perfect expression which the American people have yet evolved of the need for combining efficient administration with adequate popular control. . . . The manager is profiting by the decline of spoils politics and hidden influence. This unrecognized change in municipal life is sweeping at full tide through the manager cities. There has not been an important political campaign in Winnetka, Illinois, since Manager Woolhiser took charge a decade ago. While differences of opinion are inevitable in most communities, and will inevitably crystallize in parties, temporary or permanent, bringing about sharp clashes at elections, the political life of the American city of the future seems likely to be relatively devoid of the unscrupulous personal 'politics' of the past. The managers on the whole are pulling in the center of the stream in this respect."[9] Very different, this, from the conclusions quoted above from the textbooks on American government, national and local.

As is strongly suggested in the passages just quoted, it is probable that the true solution of party politics in local government will be achieved only *pari passu* with reform in the structure itself of local government and administration, and with the introduction of expert advice and management based on the scientific ascertainment of fact, rather than on the ignorant prejudice and ill-informed opinion colored by political considerations, and by the desire for personal advantage, which have lain behind the party organizations that have functioned in our cities. Greater emphasis on this fact in the ordinary textbooks would, it is submitted, result in a more helpful treatment of the whole problem, and would furnish more constructive suggestion to those interested in the question with the idea of becoming active in political reform. Because, inasmuch as non-partisanship is thus characteristic of the commission plan and of the city manager plan, it would seem justifiable to conclude that the bringing about of such reforms as these in local government will be most likely to be successful when undertaken through non-partisan organizations, non-partisan, that is, at least from a national point of view. It would hardly be expected that the national parties would set about the destruction of their own strongholds.

This particular aspect of the problem is dealt with directly by Charles P. Taft in his book on Cincinnati,[10] which is, so far as the writer is aware, the only specific treatment of this all important question. "I believe," says Mr. Taft, at the outset, "that a citizen organization can establish good local government and maintain it permanently on a business basis, without patronage, without yielding to either national party, and without injuring either."[11] He then reviews the successful efforts of the City

[9] White, *op. cit.*, pp. 294–298.
[10] *City Management: The Cincinnati Experiment* (New York, 1933).
[11] *Ibid.*, p. 5.

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Charter Committee under the leadership of some prominent Republicans, to set up the city managership in Cincinnati; but he shows that for the putting of the new government into operation, it was necessary for this Committee to transform itself into a self-conscious municipal party completely organized in wards and precincts—a development which Mr. Taft considers the uniquely characteristic feature of the whole Cincinnati experiment. In the end, he sets down the conclusion that while "no independent movement in any community can succeed unless it carries with it the leadership, or some leadership, important leadership, of the dominant political party, such a movement can never be successful unless it develops an independent amateur organization devoted to the service of local ideals and determined to secure good government and the merit system in public service."[12] In other words, it would appear from the experience in Cincinnati, on the one hand, that a significant change in the form of local government must be brought about through the initiative of an organization separate from the national party organizations but able to secure as its leaders members of the dominant party in the locality who are independent enough to break with their organization, yet strong enough to attract support for the change with which they identify themselves; and, on the other hand, that for the permanently successful operation of such a reform in municipal government, the group that has taken the initiative in bringing it about must itself develop into an independent political organization to elect officials, and to support them after election. These conclusions, drawn, it is true, from the experience of only one city, are, again, very different from those found in the more general treatises. It is clear that more studies of this sort are urgently needed as guides for those interested in the political betterment of the communities in which they live. Only as they are multiplied can valid generalizations be made; and it is urgently to be hoped that many more will appear. It is believed that periodicals and reviews interested in local government could perform no more useful service than to print a series of articles describing from this point of view the institution of the city manager form in various cities of the United States.[13] Yet it is also the opinion of the writer that from the data now at hand the ordinary textbook on American government could provide its readers with a better coördinated, as well as a more positive and more satisfactorily constructive, treatment of this most fundamental and at the same time most "intensely practical"[14] problem—which is, it is acknowledged, as difficult as

[12] Taft, *op. cit.*, p. 235. Cf. also pp. 76–147.

[13] The *National Municipal Review* has printed a few such articles, but more are needed.

[14] *Cf.* John Dickinson, *Political Aspects of the New Deal*, in this REVIEW, Vol. 28, p. 204 (Apr., 1934).

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it is fundamental. In closing, perhaps it is permissible to hazard the suggestion that the difficulty as between national parties and local politics is but one of the many evidences of the inefficacy of democracy in the old terms. The ultimate question remains: Can democracy reorganize itself along lines at once logical and efficient? Can it dissociate science and business from politics, and recognize each when it sees it?

ELLEN DEBORAH ELLIS.

Mount Holyoke College.

Organization of the Executive Branch of the National Government of the United States: Changes between June 30 and December 15, 1934. In the December, 1933, issue of the REVIEW, pp. 942–955, appeared a tabular review of the changes in major units of the national government between March 4 and November 1, 1933. In the April, 1934, issue, pp. 250–254, appeared a supplementary list showing the changes between November 1, 1933, and March 1, 1934. In the October, 1934, issue, pp. 872–874, a second supplementary list showed the changes between March 1 and June 30, 1934. The present list indicates the reorganization effected and new units created between June 30 and December 15, 1934. As in previous lists, mention is made of units only specifically authorized by law or established by the President under general authority vested in him.

Department of Agriculture

Entomology and Plant Quarantine Bureau formed July 1 by consolidation of Entomology Bureau and Plant Quarantine Bureau. Effected by appropriation for new bureau instead of separate appropriations for two former bureaus (48 Stat. L., 486).

Department of Commerce

Air Commerce Bureau. Name of Aëronautics Branch changed to Air Commerce Bureau by order of Secretary of Commerce, effective July 1, 1934; no change in duties.

Independent Establishments

Board of Inquiry for Cotton Textile Industry. Created by Executive Order No. 6840 of September 5, 1934.

Executive Council. Merged with National Emergency Council by Executive Order No. 6889A of October 29, 1934.

Federal Prison Industries, Inc. Created by Executive Order No. 6917 of December 11, 1934. The President was authorized to create this corporation by act of June 23, 1934 (48 Stat. L., 1211).

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Industrial Emergency Committee. Membership and duties changed by Executive Order No. 6860 of September 27, 1934; made a sub-committee of the National Emergency Council by Executive Order No. 6889A of October 29, 1934.

National Emergency Council. Executive Council merged with National Emergency Council by Executive Order No. 6889A of October 29, 1934.

National Industrial Recovery Board. Created by Executive Order No. 6859 of September 27, 1934.

Textile Labor Relations Board. Created by Executive Order No. 6858 of September 26, 1934.

Wool Textile Work Assignment Board. Created by Executive Order No. 6877 of October 16, 1934.

L. F. SCHMECKEBIER.

Brookings Institution.

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Nebraska Provides for a One-House Legislature. Mr. Justice Brandeis has said: "It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country." The voters of Nebraska, on November 6, decided to enter upon a courageous experiment and serve as a laboratory in government by the adoption of a constitutional amendment creating a one-house legislature. States still adhering to their bicameral legislative machinery, but skeptical of its efficacy, will follow with keen interest the operation of Nebraska's unicameral plan.

Press comments from every section of the United States express either approval or doubt of this departure from the traditional law-making body. With two exceptions (Lincoln *Daily Star* and Hastings *Daily Tribune*), the editorial writers of all of the leading dailies in the state branded the one-house legislature as "a novelty" and the proposal itself as "radical," "revolutionary," and "dangerous."

These attacks by the press did not have the influence which they might have had if the proposal had been thrust upon the electorate suddenly. Reform in the legislative set-up in Nebraska had been before the people since 1913. A commission created in that year made a careful study of the workings of the law-making body and in its recommendations to the legislature of 1915 suggested that one of the much-needed reforms was the establishment of a one-house legislative body patterned somewhat upon the Canadian system.[1] A resolution to carry this recommendation into effect, proposed in the legislature of 1917, received extensive publicity, but was finally smothered. The constitutional convention of 1919-20 defeated a similar proposal by a tie vote.[2] The proposition reappeared in the legislative sessions of 1923, 1925, and 1933. In 1923, an initiative petition for a constitutional amendment to create a one-house legislature was circulated, but did not receive the requisite number of signatures.[3] It can scarcely be said, therefore, that when Senator George W. Norris inaugurated his campaign for a unicameral legislature in the fall of 1933, the proposal was something new. Nor can it be said that there was no demand for the reform, as the opposition press alleged. What gave significance to the movement was the fact that Senator Norris sponsored it. The Beatrice *Sun*, August 12, 1934, observed: "If the proposal had come from any other source than Senator Norris, it would have received almost no consideration at all." The Fremont *Tribune*,

[1] *Reform of Legislative Procedure and Budget in Nebraska.* Bulletin No. 4, Nebraska Legislative Reference Bureau, May 15, 1914.

[2] *Proceedings of the Constitutional Convention, 1919–1920*, Vol. 2, p. 2798.

[3] *State Journal*, Sept. 11, 1923; Lincoln *Daily Star*, Sept. 12, 1933.

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the Omaha *World-Herald*, and the Scotts Bluff *Star Herald* voiced similar opinions.

The opponents were keenly aware that the prestige of Senator Norris throughout the state would be sufficient to arouse a state-wide interest in any reform which he might sponsor for the improvement of the state government. On February 22, 1934, Senator Norris formally apprised the people of the nature of the amendment which he planned to bring before the voters by means of the initiative. He insisted from the first that his appearance in the state in support of the amendment would have absolutely no political significance; that his sole interest centered in the establishment of a one-house legislature. His political opponents pursued their opposition to the proposed amendment cautiously. Consequently, from the date when the campaign was inaugurated, on February 22, until the November election, Mr. Norris was contending with essentially the same forces that sought his defeat in the campaign of 1930. Some of the opposition appeared on the surface, while most of it remained under cover. The conservatives of both political parties were too wary, however, to commit their parties against the amendment in the political platforms lest such open opposition invite the Senator's attention.

The amendment finally submitted to the voters contained all of the essentials of Senator Norris' original conception of a one-house legislature. It differed in minor details. In his "Model State Legislature,"[4] he advocated a small legislative body of not less than 20 nor more than 30 members, the salary to be commensurate with the dignity of expert lawmakers, the session to be continuous, the members to be elected on a non-partisan ballot for a term of four years. The executive committee in Nebraska to whom the Senator entrusted the drafting of the amendment felt that the adoption of a one-house legislative body would be jeopardized if the number of members was too small, if the term of office exceeded two years, and especially, during an economic depression, if the members were paid a large salary. All previous proposals, with the exception of the one introduced by Representative J. N. Norton in 1917, provided for a house of 100 members elected for a two-year term.

The amendment ratified by the voters provides for a one-house lawmaking body composed of not less than 30 nor more than 50 members elected from single-member districts on a non-partisan ballot; it stipulates biennial sessions unless otherwise provided for by law; it designates the lieutenant-governor as presiding officer of the house, abolishes the twenty-day limit for the introduction of bills, adds that final vote on passage of a bill cannot be taken until a lapse of five days after its introduction nor until it has been on file for final reading and passage for

[4] *New York Times*, January 28, 1923.

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at least one legislative day, that a record vote must be taken on any question upon the request of a single member; and requires the 1935 legislature to district the state in accordance with the membership determined by it. The first session of the unicameral legislature will convene the first Tuesday in January, 1937.

Besides fixing the size, the legislature of 1935 must likewise divide the state into single-member districts. This will undoubtedly be one of the most perplexing tasks confronting the legislature. Though the area of the state is 76,808 square miles, the population, according to the 1930 census, is only 1,377,372. If fifty is the number decided upon, each member will represent 27,560 persons. Since the population is largely concentrated in the eastern half of the state, that section will have relatively small districts and a large proportion of the representatives, while the sparsely populated west will have large-area districts and a small proportion of representatives. Obviously, there will be a conflict between the urban and rural areas. Objections have been raised that the western part of the state will not be adequately represented. However, since the state has one predominant industry, i.e., agriculture, the alleged discrimination against half of the state will doubtless prove to be unreal.

Although the cost of legislative sessions in Nebraska has not been excessive, the saving which might be effected by a one-house legislature appealed to the voter in making his decision for or against the amendment. The total of salaries for the biennium is fixed at $75,000. The sum of $37,500 is to be paid annually, the method of payment to be determined by law. Consequently, the amount of salary each member will receive per annum will depend, in the final analysis, upon the number of members decided upon by the 1935 legislature. The base of travelling expenses is changed from ten cents per mile to actual expenditure for travelling once to and returning from the legislative session. The saving in salaries for a biennial period will be about $30,000. Moreover, there will be no salaries for special sessions, and the incidental expenses such as printing journals, mileage, employees, and supplies will be cut at least in half. The one-house legislature will effect a substantial saving in the cost of government.

The amendment does not depart from the traditional two-year term or the biennial session. It does, however, provide that other sessions may be provided for by law. It is a possibility that should the one-house legislature become convinced that the interests of the state could be served more effectively by meeting annually, it might exercise its power to provide for annual sessions. On the other hand, if the legislature meeting in regular session desires to adjourn from time to time, it may continue itself in regular session throughout the biennium.

The provision in the constitution that the governor may call the

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legislature in special session, and that on such occasions it must confine itself to the specific provisions in the governor's call, has not been disturbed. There is no apparent conflict between this provision and the one that the legislature may provide by law for other than biennial sessions. As the demands of society upon the legislature grow greater year by year and need for necessary changes in the law become more pressing, annual sessions or continuity of sessions, instead of special sessions, may solve one of the perplexing problems with which legislatures must cope.

The members of the one-house legislature will be elected upon a non-partisan ballot. This innovation is not as striking as one might suppose, because Nebraska voters have been accustomed not to take their party adherence seriously, nor have party ties in recent years had a conspicuous influence in legislative procedure. For many years the non-partisan method of election has been applied to judges, school officials, and municipal officers. At the November election of 1934, the voters, for the first time, used a ballot upon which there was no party circle. Perhaps complete separation of state and national politics may not be possible, but there is already a preponderant sentiment in favor of electing legislators on "business principles, rather than as a result of partisan considerations." Senator Norris won many adherents to the amendment by expounding the theory that a legislature should be elected on a business basis and transact its business along business lines. He said: "We should make of our state a great business institution. We cannot do this unless we eliminate partisan politics." Whether non-partisan elections will produce a higher type of legislators, imbued with the high-minded desire "to give the best that is in them to the welfare of the state"[5] is a matter that will be followed with keen interest. While some persons had serious misgivings about the inclusion of the non-partisan feature in the amendment lest it develop political opposition and jeopardize the success of the proposal, the result of the vote showed conclusively that such apprehensions were groundless.

As to procedure, the artificial device restricting the period of introduction of bills to the first twenty days, having failed in its purpose to reduce the number of bills introduced, is repealed. This practice, in operation since 1913, has, as a matter of fact, produced new ills such as the introduction of a mass of bills near the close of the period of bill introduction and the prevention of introduction of some meritorious measures near the close of the session except at the request of the governor. Since the small one-house legislature may sit for many months, and may possibly take a recess for a month at a time, the twenty-day limitation seems unwise and unnecessary.

[5] *State Journal*, February 22, 1934.

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The lieutenant-governor is made the presiding officer of the unicameral legislature, but has no voice in its deliberations, and, like the vice-president of the United States, he may vote only in case of a tie. The house may elect a speaker who will preside in the absence of the lieutenant-governor or in case the latter is called upon to perform the duties of governor. Adequate safeguards are provided also to secure greater publicity of procedure. A record vote may be demanded at any time by a single member. To prevent hasty action on newly introduced measures, the amendment provides that no vote on final passage of any bill shall be taken until five legislative days after its introduction, nor until it has been on file for final reading and passage for at least one legislative day.

The amendment was approved by the people by a vote of 286,086 to 193,152. It carried in 84 of the 93 counties. After a bitterly fought campaign, the result was surprising. Since the election, the attitude of the people in general has been one of satisfaction. Whether the experiment will prove as successful as its supporters hope, or whether there are weaknesses which will appear after the one-house legislature has been tried, are subjects for conjecture. The electorate shows a certain satisfaction that Nebraska had the courage to break with tradition and try a major political experiment. If legislation can be defined as the crystallization of public policy into law, there must be a law-making body which will serve as a deliberative forum for discussion of the needs for legislation. It is believed that the one-house legislature of from 30 to 50 members will be a genuinely deliberative body.

In the next place, party influence cannot have any direct part in the election of the legislature. Consequently, law-making is divorced to a great degree from party politics, and measures will be considered on the basis of their merits rather than upon that of political consequences. Moreover, where there is only one house there can be no shifting of responsibility. Each member is directly answerable to his constituency. One house will facilitate deliberation, and the removal of the twenty-day limit for introduction of bills will undoubtedly reduce the number of measures introduced. The one house will recognize the fact that law-making is more of a business function than a political function.

Procedure will be simplified. In the first place, there will be fewer committees. Next, it is probable that measures will be considered more thoroughly than at present in committee of the whole. That committee will be magnified in importance. There will probably develop more extensive use of expert assistance. Something similar to the legislative counsel may develop to ascertain what subjects require new legislation and how to make necessary amendments to existing statutes. A larger staff of trained experts in the legislative reference bureau to insure study of laws before drafting is essential. Not only must there be expert bill

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drafting service, but coupled with this there should be a reviser of statutes who will be active during and between sessions.

Perhaps the most important change which can be foreseen at present is the altered relationship between the executive and legislative branches of the government. It has been predicted by some observers that this will prove to be more far-reaching than the creation of a single house. The legislature will be freed from the influence of the governor as titular head of his party, and also from the exclusive power of the governor to call special sessions to consider only certain designated subjects. The one-house legislature may become a completely independent and distinct department of government. A major change in the machinery of government requires courage, but the task of making the new system work successfully demands even greater courage; and that task depends upon the character and competence of the men who are chosen to operate it.

JOHN P. SENNING.

University of Nebraska.

Legislative Recording in the United States. What records do the state legislatures keep of their personnel and business? What information as to the legislators and their activities can be gleaned from them? Such questions raise at once the problem of comparative forms of record as actually found in the forty-eight state legislatures (in fact the ninety-six houses). A study of legislative documentation reveals a wide disparity among the states in the scope and content of these records, and within any particular subject of comparison, e.g., biographical data and histories of bills, an even greater variety in the methods employed by different legislatures—not infrequently, indeed, within a single house from one period to another. Such proliferation of form in the keeping of records of what is essentially a uniform, if not identical, type of activity (excluding infrequent and now obsolete constitutional provisions in a few states) suggests at once the utility of a comparative analysis to develop standards in one of the most significant fields of political statistics.[1]

If the intelligibility of legislative records from the point of view of both the legislator and the general public is considered as one criterion of adequacy, examination of their content and presentation is a preliminary step in the development of standards. A comparison with statistics in many fields of administration discloses at once the inadequacy of present political statistics.[2] While it is, of course, true that legislative data are

[1] Political statistics, as here interpreted, deals with the personnel of the legislative and administrative branches of the government, with the recording of the legislative process in the senate and house journals, and with election statistics.

[2] Cf. "State and Local Public Administration," in S. A. Rice, *Next Steps in the Development of Social Statistics* (Ann Arbor, 1933), 73 ff.

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not utilized in current governmental activities to the same degree, it is no less desirable to make them available in as effective a manner as possible. That substantial economies can at the same time be realized in the clerical and printing costs of many legislative bodies does not diminish the advantage to be gained from a reconsideration of present practices.[3]

The materials covered in this study include the senate and house journals of all the states for sessions between 1929 and 1933 (in a number of instances, the journals for several sessions of a single house were scrutinized), and the "blue books," "legislative manuals," "legislative handbooks," "official registers" (in all cases for at least three issues) which correspond roughly in character and content to the *Congressional Directory*. Other special publications, issued by the legislatures or by various state administrative agencies, were reviewed whenever available to determine whether the data selected as significant for comparison were available in other than legislative documents.[3]

From these materials comparisons were made of the legislative process as indicated by the inclusion of roll calls, committee reports, governors' messages, and of the record concerning each bill introduced; of the data concerning the personal and legislative records of the members of each branch of the forty-eight state legislatures (biographical records of the higher executive judicial personnel were also included); and of election statistics as officially published by any agency of the state government.[4]

The following summaries will indicate the details concerning each of these major items:

Senate and House Journals. With the exception of Pennsylvania, which prints a full verbatim record (similar to the *Congressional Record*), and of Maine, which prints a condensed verbatim record (including stenographic reports of all debates at the discussion stage of each bill not passed by unanimous consent), no state legislature prints a complete record of its proceedings. Records take the form, varying greatly in detail, of minutes kept by the legislative clerical staff. What is included depends in part upon the rules of the respective houses. There is, for instance, great variation in the treatment of the daily roll-call. In some

[3] A survey of the records of city councils for some twenty cities of varying populations and in different parts of the country failed to yield a single instance in which these records were not purely formal in character. The number and title of ordinances passed and the record of votes upon them were usually included. Otherwise no important data were obtainable, and not infrequently the votes of members of the council were omitted. There is usually to be found in the annual reports or in separate publications a roster of members of the city administration.

[4] Since the completion of this study there has appeared, E. E. Robinson's *The Presidential Vote, 1896–1932* (Stanford University Press, 1934). The general note on sources, p. 379 ff., is the most complete published record to date of sources for election statistics for the period covered.

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legislatures, a roll-call is entirely dispensed with. Where required, the journal sometimes prints the result of the roll-call in full and in other cases simply notes that it was taken. There is again a good deal of variation in the inclusion of what may be called irrelevant items. For example some journals contain the daily prayers in full; others do not. Another conspicuous but not isolated illustration is the Illinois senate journal for 1931, 356 of the 1,750 pages of which are devoted to printing the names of persons appointed notaries public by the governor—an item included because of constitutional and statutory provisions. The investigator of the content of proposed legislation is, therefore, at a great disadvantage so far as most of the existing legislative journals are concerned. He will obtain a direct knowledge of only a small proportion of the bills and resolutions introduced and must have available the printed or mimeographed slip laws to get any adequate impression of the trend of legislation in any state. Since the offprints of bills in passage are not included, no permanent record of the evolution of bills enacted into law is available.

The minutes reported in most legislative journals are uninformative. The record of legislation introduced and carried from stage to stage contains little more than the number and brief title of the bill. In some journals will be found detailed committee reports which include the actual wording of bills recommended for passage; but practice with respect to committee reports and resolutions is not uniform, even within the same legislative house and session. Moreover, a large proportion of the bills relate to existing statutes, which are cited by chapter or section, leaving the reader in ignorance as to their purpose. The history of bills tends to be more effectively recorded, though the journals vary in this respect as much as in any other.

Of how much importance is it to print the elaborate records which now form the legislative journals of American states? Except in Maine and Pennsylvania, there is no opportunity to obtain from them a direct impression of the course of debate or the attitudes of individual members upon pending legislation except as these are reflected in the roll-call votes. To take but a single example, the North Dakota house sat for exactly two months in 1931 and produced 1,784 pages of minutes. This is not exceptional.[5] It is questionable whether this record, maintained in its original form in the state capitol, would not be as useful to legislative and other users as are the printed volumes.

It is probable that the committee stage is for most legislation the most important; yet it is the stage regarding which the least information

[5] The largest record disclosed in this survey was that of the Florida legislature of 1931, the journals of both houses of which ran to over 12,000 pages. In that year, the stenographic and clerical costs of the legislature approximated, and, in the case of one house, exceeded, the salaries and other expenses of the legislators.

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may be obtained from existing legislative records. Many abbreviated committee reports to legislative bodies are probably supplemented upon the floor by verbal explanations which make their purport intelligible, but these are not recorded in the journals. Several legislatures distinguish between reports of standing and special committees, printing the latter in full but only the recommendations of the former; although these two classes of reports, on the average, are certainly of equal value. Many legislatures print the reports of conference committees in full, although these usually contain only formal recommendations concerning amendments to pending bills and thus tend to be of even less value to the student of legislative history or procedure than the reports of standing committees. Practically all states print roll-call votes *in extenso*, notwithstanding that the votes are unanimous in the overwhelming majority of instances. In fact, in at least one legislative body in which the so-called "short roll-call" has been employed, it has been customary for the names of a few members only to be actually called by the roll clerk. Nevertheless, the full roster of members presumed to be present is repeated in full, roll-call after roll-call, to the aggregate extent, in many sessions, of hundreds of pages. In the North Dakota house of representatives, for example, a single roll-call requires a full page of names in three columns. Would it not be possible to record on any roll-call merely the names of those casting minority votes, together with the names of absentees?[6]

[6] A summary of the data discussed above indicates that only the Kentucky senate and house journals print all bills in full (appropriation bills are printed in the Connecticut senate journals; the Alabama senate and house journals and the Florida senate journals include the texts of all local acts). Amendments to bills are printed in full except in the Oregon, Utah, Washington, West Virginia, and Wyoming senate journals, and the Delaware, Oklahoma (abstracts), Oregon, Washington, West Virginia, and Wyoming house journals.

Daily roll-calls (for quorum purposes at the beginning of each day's sessions) are included in the senate journals of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, North Carolina, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming; and the house journals of Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, North Dakota, Oklahoma, South Dakota, Texas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming. Absentees only are listed in the North Dakota and Oregon senate and the Oregon house journals.

Roll-calls on third reading are included *except* in the Senate journals of Connecticut (on demand), Maine, New Hampshire, Oklahoma, Oregon, South Carolina (on demand); and in the house journals of Connecticut (on demand), Maine, Oregon, and South Carolina (on demand).

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Histories of Bills. No part of the legislative record is more significant for an understanding of the legislative process itself or of the trend of legislation in the individual states than the indexing of the bills as they are ground through the legislative mills. Only the senate journals of Maine, Maryland, Nevada, New Hampshire, New Mexico, and Rhode Island, and the house journals of Maine, Nevada, New Mexico, and Rhode Island omit any data from which a history of each bill introduced can be derived directly. But the quality of the information as well as its detail varies greatly—all the way from general references in bill or subject-matter indexes to elaborate serial histories of bills, in one case noting 42 stages in the course of a bill from introduction to final passage and signature by the governor.

No part of a legislative journal could lend itself so easily to standardization of form as the history of bills—and no part is at present less standardized. Such a standardization would provide valuable comparative data on legislative procedure and the course of legislative policy. It could be developed from the practices of legislatures which have now carried their histories of bills farthest toward a detailed classification, notably Ohio and Pennsylvania. With the addition of roll-call votes, recorded in the manner suggested in the preceding paragraph, and committee reports, such a standard history of bills might, in fact, provide a sufficient printed record of legislative sessions.

An adequate history of bills might well include the following data: (1) the author or introducer of every measure; (2) committee reference; (3) committee action, with the vote of the committee—names included where recorded—on reporting out and names of those appearing before the committee; (4) action on second and third readings—on third reading, votes with the names recorded, including absences and pairs, should be listed; (5) action in other house (in the same detail for each major legislative stage); (6) action on conference; (7) action by governor; (8) subsequent action. The outline suggested appears to be the minimum

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Committee reports are printed in full in the senate journals of Arizona, California, Florida, Minnesota, New York, North Dakota, and Texas; in the house journals of Arizona, California, New Hampshire, New York, Oklahoma, Texas, West Virginia, and Wyoming, and abstracts in Idaho and Illinois.

Joint conference committee reports are printed in full in the senate journals of Arizona, California, Florida, Georgia, New York, North Dakota, and Texas; in the house journals of Arizona, California, New Hampshire, Oklahoma, Texas, West Virginia, and Wyoming. Elsewhere, general and joint conference committee reports are printed by number and title only.

Governors' messages, whether annual, special, or veto, are very generally printed in the journals of both houses. In a few states, one or more types are omitted. In only ten senate journals and nine house journals is any one of the types not included.

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necessary to give a complete record of the activity of the legislature on each item.

Legislative Manuals and Blue Books. The variety of content in state legislative manuals and "blue books" is much greater than in the legislative journals. This may be due in part to the variety of agencies responsible for their compilation. They are predominantly the product of the office of the secretary of state, but a number are issued by a legislative reference or historical bureau, and a few by the legislative staff.

Most manuals contain biographies of legislative, congressional, and important state officials. These vary widely in usefulness for research. Unlike the specific biographical item in the rosters of the legislative journals, they are usually written by the individuals portrayed without specific limitations upon the types of data included. Summary statements of the political records of these individuals would often be more useful than the laudatory, indefinite, and discursive biographical statements frequently included. A more complete biographical record for the executive side of government would also be useful.

There is great variety in the nature and extent of administrative materials included in manuals. No really useful purpose is served by filling many pages with the names and titles of subordinate personnel. A summary statement of the number of employees in each department or bureau, under functional rather than title headings, would be of value. A useful addition to many manuals would be a chart of state government indicating lines of responsibility.

In thirty-four state manuals, there is information as to county offices and office-holders, while in sixteen some information is to be found for towns, cities, and other units of local government. This rarely goes beyond the publication of lists from which one may sometimes learn the numbers of officers, the nature of their tenure, their political affiliations, salary, and term of office, for each unit of government. Ohio and several other states publish separate lists of county and municipal officers. These offer no adequate information as to political behavior in local government beyond the possibility of tracing continuity in office-holding for particular individuals. On the other hand, the *Minnesota Year Book*, issued by the Minnesota League of Municipalities, gives a detailed analysis of the constitutional and statutory bases, the organization and the personnel of local government, for an understanding of which it has inestimable value.

Election Statistics. The manuals often contain the only official record of election statistics which is put in print for the states concerned, apart from the votes for national offices (presidential electors, senators, and representatives) by states and congressional districts. The latter are reported for major party candidates in the *Congressional Directory*. There

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is little uniformity, however, in the amount of detail given. Only nine states have been found which customarily record in these volumes any election statistics "broken down" for units below cities and towns. These are Iowa, Michigan (in part), Minnesota, Missouri, New Jersey, New Mexico, New York (in part), Pennsylvania (in part), and Wisconsin.[7] Statistics of referenda are usually treated in a manner similar to other election statistics. In general, statistics of both primary and general elections are in complete confusion, as to the units employed (city, ward, county, or election district, etc.), as to the offices reported upon, as to the treatment of candidates of minor parties, and in various other respects.

In many cases the election statistics for any but the national and chief state administrative offices are entirely unsatisfactory. The detail with respect to legislative apportionment is more adequate, but it would be useful to have, in addition to boundaries of districts, the constitutional bases of apportionment and the terms of the latest apportionment act—information which is included, for instance, in the New York *Red Book*.

The prevailing lack of uniformity applies not only to the manuals of different states, but to those appearing from year to year in the same state. There is a general tendency for the contents to be expanded, especially when the editors change, but there is no assurance that the materials previously included will be continued. One sometimes misses the colored reproductions of the state flag and the national emblem in red, white, and blue, with which he has become acquainted in earlier issues. As in the case of the legislative journals, this entire group of publications offers a fertile field for attempts at standardization, both in the interest of economy and for the development of political statistics and research.[8]

One possible agency for carrying out such a program is the American Legislators' Association. With its contacts within both branches of all the state legislatures, something like interstate coöperation in the development of standards, through formal or informal channels, might be

[7] The manuals of Minnesota and Wisconsin, for example, give the vote for some elective officers in every voting precinct or election district in the state.

[8] Cf. I. G. Swisher, "Election Statistics in the United States," in this REVIEW, Vol. 27, p. 422, for a complete review of contemporary sources for election statistics. The tables below indicate the biographical and election statistics available in existing legislative handbooks. Some of those states for which no data are indicated publish other documents containing biographical data or election statistics. Cf. Swisher, above. By "biographical sketches" is meant more or less extended statements, either by the individuals concerned or by the staff responsible for compiling the publication, of the personal and political experience of the individuals listed. By "biographical lists" is meant a listing with not more than the following data: name, residence, office, term.

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achieved. The present heterogeneity in the agencies in the various states responsible for compiling these records makes for variety in their form and content. Centralization of authority, for instance in the hands of the legislative clerks or legislative counsel, would facilitate progress toward simplification and uniformity.

SUMMARY A

State Manuals and Blue Books:

1. *Containing "biographical sketches" of:*
   a. Chief Executive State Officers—Alabama, Arkansas, California, Georgia, Illinois, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin.
   b. Legislative Personnel—Alabama, Arkansas, California, Connecticut, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin.
   c. Judicial Personnel—Alabama, California, Connecticut, Georgia, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nevada, New Jersey, North Dakota, Pennsylvania, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin.
   d. Clerical and Other Legislative Staff—California, Connecticut, Georgia, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Nevada, New Jersey, Pennsylvania, South Carolina, Texas, Utah, Vermont, Wisconsin.

2. *Containing "biographical lists" of:*
   a. Chief Executive State Officers—Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Kansas, Maine, Massachusetts, Montana, Nebraska, New Hampshire, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, Wyoming.
   b. Legislative Personnel—Arizona, Colorado, Delaware, Georgia, Iowa, Kansas, Maine, Massachusetts, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Tennessee, Virginia, Wyoming.
   c. Judicial Personnel—Arizona, Maine, Massachusetts, Nebraska, New York, Oklahoma, Wyoming.

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d. Clerical and Other Legislative Staff—Alabama, Arizona, Florida, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, New Hampshire, New York, Washington, West Virginia.
e. County Personnel—Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming.
f. Local Government Personnel—Arizona, California, Connecticut, Illinois, Maine, Minnesota, Missouri, Montana, Nebraska, New York, Ohio, Oregon, Pennsylvania, Rhode Island, West Virginia.

SUMMARY B

State Manuals and Blue Books presenting election statistics for

1. *Governor by*
   a. Counties and / or Districts—Alabama, Arizona, Arkansas, California, Georgia, Illinois, Iowa, Maine, Maryland, Nebraska, Nevada, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, West Virginia, Wyoming.
   b. Towns and Cities—Connecticut, Iowa, Maine, Massachusetts.
   c. Wards and/or Precincts—Iowa, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Vermont, Wisconsin.
2. *Other state executive officers by*
   a. Counties and / or Districts—Alabama, Arizona, Arkansas, California, Georgia, Illinois, Iowa, Maryland, Michigan, Nebraska, Nevada, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, West Virginia, Wisconsin, Wyoming.
   b. Towns and Cities—Connecticut, Iowa, Missouri.
   c. Wards and / or Precincts—Iowa, Minnesota, Nevada, New Jersey, New Mexico.
3. *Members of legislature by*
   a. Counties and / or Districts—Alabama, California, Illinois, Iowa, Maryland, Michigan, Minnesota, Nebraska, New York, North Carolina, Pennsylvania, Tennessee, West Virginia, Wisconsin.

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b. Towns and Cities—Nevada.
c. Wards and / or Precincts—Missouri, New Jersey, New Mexico.

4. *Judicial officers by*

a. Counties and / or Districts—Alabama, California, Georgia, Illinois, Maryland, Michigan, Minnesota, Nebraska, Oklahoma, Oregon, South Dakota, Tennessee.
b. Towns and Cities—Nevada.
c. Wards and / or Precincts—Missouri, New Mexico.

PHILLIPS BRADLEY.

Amherst College.

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Constitutional Reform in France. The Stavisky affair in France was, it would now seem, one of those national crises with which students of French politics are familiar. In cases of the kind, a chronic condition becomes acute. A latent anti-democratic sentiment and a dormant anti-parliamentary movement appear to become suddenly aroused. A concatenation of apparently superficial circumstances causes an emergency to exist.

The many persons who, like M. Charles Benoist for example, have for a long time insisted that the inevitable ultimate outcome for a system suffering from a chronic condition marked by periodic crises must be revolution, dictatorship, or reform seemed in February of 1934 to be supported by unusually important facts. In conditions such that anticipation of revolution or dictatorship was prevalent on an exceedingly large scale, M. Doumergue assumed power, as is well known, with the definite understanding that he would direct his efforts seriously and unconditionally towards reform. Accepting literally the outcry against Parliament and the Deputies, he interpreted the anti-parliamentary movement literally. He gave his attention primarily to the institutional rather than to the political causes of the shortcomings of the French parliamentary system. As a result, he proposed, as a curative and preventive measure, to introduce into the constitution of France a few provisions which might serve as a basis for reforming the French variant of parliamentary government.

The support of public opinion seemed assured to M. Doumergue's undertakings. Personally popular, the former president of the Republic appeared to be succeeding in gradually quieting apprehensions. Possessed of the confidence of the general body of the people, he was apparently trusted to take such steps as would be in the national interest. So far as constitutional reform was concerned, he improved his position during the summer, in the opinion of many observers, by a series of effectively simple broadcasts. Moreover, in the same respect, a parliamentary committee on "Reform of the State" early approved proposals for constitutional revision identical in principle with those of M. Doumergue, and even more far-reaching in degree. And yet, as every newspaper reader knows, the reassembling of Parliament early in November was quickly followed by M. Doumergue's fall from power. Interest in constitutional amendment apparently disappeared with him. In the result, the student of French political institutions has been left with a series of proposed constitutional changes to examine; and the student of French practical politics has been furnished with an interesting and instructive situation to explain.

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The distinguished Alsatian scholar, M. Robert Redslob, has reduced to striking epigrammatic form the statement of a few important principles of parliamentary government. In his solid book, *Le Régime parlementaire*, he suggested in 1924 that the ideal of the parliamentary system is a nice balance between the legislature and the executive. Though he was certainly not unaware that the position of the private member in England is often criticized as unsatisfactorily weak, he spoke of the English system as parliamentary government in its "true form." The French variant of the parliamentary system, because of the overweening power of Parliament, M. Redslob denominated parliamentary government in its "inauthentic form." To these views most students of political science would doubtless subscribe without material disagreement. M. Doumergue in effect appeared to accept them unreservedly. He stated frankly his desire to see the French parliamentary system become as much like the English as possible. His wish was for Parliament, especially the Chamber of Deputies, to be relatively less powerful; and his aim was to establish a marked degree of equilibrium between the legislature and the executive. "There is nothing democratic," he was at the beginning of February reported as saying to M. Lafue (*Le Président Doumergue nous dit*), "about the dictatorship of six hundred Deputies who are for four years answerable to no one and who at times so lose touch with the country that they serve private and not public interests. Real democracy is something very different. It involves a balance of power between the legislature and the executive."

The proposals of M. Doumergue, though they were all calculated to serve the single purpose of fortifying the position of the executive in the face of "the omnipotence of Parliament," may be regarded as attempting to accomplish four changes. In the first place, the position of prime minister was to be defined and strengthened. In the second place, the civil service was to be established on a basis of formally enacted law. In the third place, the part played by the executive in the administration of public finance was to become a more respectable one. In the fourth place, dissolution of the Chamber of Deputies was to be regulated in such a way that it might be resurrected from the state of desuetude in which it has so long remained.

Constitutional provisions for bringing about the results aimed at were drafted. On the assumption that they would become part of the organic law of France, M. Joseph-Barthélemy suggested in his inimitable style that they should be called, after the analogy of the Rivet constitution, *La Constitution Doumergue*. In the November number of the *Revue politique et parlementaire* (t. CLXI, no. 480), this eminent professor of constitutional law, buttressed with the texts of the proposed amendments and qualified by his ripe scholarship and extensive practical experience,

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contributed an article such as only he can write. He there placed the capstone, as it were, not only on other recent articles of his own, such as those in *La Revue des vivants* (April, 1934) and in *L'Europe nouvelle* (October 10, 1934), but also on recent discussions of governmental reform in France by such authors as M. Maurice Ordinaire in *La Révision de la Constitution* (Paris, 1934), M. André Tardieu in *L'Heure de la décision* (Paris, 1934), M. René Capitant in *La Réforme du parlementarisme* (Paris, 1934), Mr. Mirkine-Guetzévitch in *L'Année politique* (April, 1934) and in *Politica* (August, 1934), and M. Albert Milhaud in *La Revue politique et parlementaire* (May, 1934).

The Position of the Prime Minister. M. Doumergue proposed to introduce into the Law of February 25, 1875, on the Organization of the Public Powers, at the beginning of Article 6, which has to do with the responsibility of the ministers and with the irresponsibility of the president of the Republic, the following simple provision: "The number of ministers, exclusive of the president of the council, who shall serve as prime minister without portfolio, shall not exceed twenty."

This proposal clearly contemplates giving to the position of president of the council of ministers the benefit of such moral strength as results from incorporation into organic law. Failure of the exceedingly brief French constitution anywhere to mention the most important position under the parliamentary system of government is, of course, well known and easily explained. In reality, the absence of any constitutional provision has not prevented a Waldeck-Rousseau or a Clemenceau from becoming a real prime minister in the literal sense of principal minister. However, the accomplishment is manifestly not easy where the homogeneity of the cabinet is destroyed by the presence in it of members from several parties. At all events, the usual designation of the French premier as *primus inter pares* being particularly apt in normal conditions, a constitutional amendment which might serve to subordinate the other ministers to the prime minister would be eminently worth while. Whether the effort thus formally to enhance the importance of the head of the government would be so likely to succeed as to compensate for depriving the prime minister of the chance to serve as head of a major executive department appears very difficult to predict. No doubt exists but that under present arrangements the president of the council may serve with or without portfolio as he pleases. It is equally certain that in the past France has profited from this flexibility. In the case of Poincaré, for example, the ministry of finance seemed to be the only natural place for him at the time of the "crisis of the franc;" whereas a short time later, it will be remembered, he served as president of the council without portfolio. M. Doumergue himself undertook in practice the arrangement he advocated; and M. Flandin has followed his example.

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The reason for limiting the number of ministers is simple. The steady increase in the size of the council of ministers ought indubitably to be arrested. Whether the proposed provision would accomplish the purpose is another matter. The question would still remain whether legislative or executive action would be the means of determining the organization of the council. The provision of the Finance Act of 1920, which limits the complete freedom of the premier in the matter, has been regularly disregarded. Flagrant violation of a constitutional stipulation would no doubt be less likely; but other ways would exist, and might in practice prevail, whereby the effectiveness of the limitation could be materially lessened.

The Status of the Civil Servants. The text-book picture of an expert and efficient civil service, detached from politics and equally loyal in its support of any government which may come into office or power, can probably never be completely realized in practice. At all events, where political and economic and social issues cut so deep that the question even of the régime cannot be regarded as definitively settled, there attaches to a civil service composed of supporters an importance which far transcends the ramifications of a "spoils system." Perhaps analogy in this respect with certain situations where loyalty of the military establishment becomes all important is not too strained. If this aspect of the civil service appears to be well understood in certain quarters in England and America, passionate interest in it is apparently still more widespread in France. Consequently, attempts to deal with the civil service can always be counted on to arouse deep feeling.

The proposal of M. Doumergue with respect to the difficult and delicate matter of the civil servants seems modest enough. He suggested another amendment of the Law of February 25, 1875, which would involve introducing into Article 4, devoted wholly to the Council of State, the following provision: "The state assures its functionaries of stable employment and a guaranteed career. Every unjustified or concerted interruption of their service involves breaking the bond which unites them with the state."

Indubitably, much would depend on what statutes were erected upon this basis. The first sentence seems innocuous enough. In general, it describes a situation which already exists. On the other hand, the terminology of the second sentence clearly is of such a nature as to cause liberals or radicals inevitably to see reactionary implications in it. Even from a conservative point of view, the terminology appears ambiguous. A conservative would insist that every "concerted" interruption of the public services is "unjustified."

The Executive and the Administration of Public Finance. In the matter of parliamentary practice with respect to financial measures, M. Dou-

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mergue had two amendments to propose. Strangely enough, he contemplated introducing them into the Law of February 24, 1875, on the Organization of the Senate! The first provision was couched in these words: "When the budget of a fiscal year has not been voted by the two Chambers before the first of January of the year to which it relates, the president of the Republic may, by decree issued in the Council of State, extend to all or part of the said year the budget of the preceding fiscal year." The second proposal was as follows: "Except on the initiation of the Government, no proposal for expenditure shall be in order unless preceded by a vote on the part of the Chambers of corresponding revenue."

The proposal for extension of the budget is, of course, aimed at the frequent failure on the part of the French Parliament to vote the annual budget on time. The resulting practice of voting "provisional twelfths" is generally condemned by all French students of public finance. However, these students would probably all agree that change of habits, not of law, is what is needed. The delays in the usual procedure are well known. M. Doumergue's proposed amendment manifestly assumes that the fault belongs to Parliament, not to the Government. This may on occasion be partly or almost wholly true; but the Government may also be equally or more to blame. To say that the budget is introduced during the regular session does not mean that the Chambers can begin its discussion during that session. They, in fact, never can. The budget is usually introduced late in the session. It is frequently introduced only in dummy form. In either case, it must be referred to the committee on finance in the Chamber of Deputies, which must examine it in whole or in part during the summer vacation. The supposed advantage of a dummy introduction is, of course, that the Government may turn over to the committee parts of the budget as they are prepared. In reality, delay may be greatly extended by the Government. In the end, when the committee stage has been completed, the budget must be discussed at an extraordinary autumn session. Yet not only are committee hearings dependent on Government initiative; the special session is called by the Government. Unless better habits could be assumed, in which case the amendment would be largely useless, the proposal would, it may be readily understood, render possible actions on the part of the Government that no believer in free government could envisage with equanimity.

Even ardent champions of democracy can agree, since experience furnishes them with abundant proof, that legislatures are extravagant guardians of the people's money and that the most democratically chosen representatives are normally far from economical. The self-denying rule of the House of Commons which forbids all proposals of expenditure except those initiated by the Crown has been often envied in other countries. M. Doumergue wished to write such a provision into the

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constitution of France. In one of his broadcasts, he announced his intention of doing so. It would undoubtedly have been better if he had continued in his resolution. The form proposed was obviously a compromise. In the result, the provision did not greatly differ from stipulations of the standing rules of the Chamber of Deputies. These rules are better than nothing; and they apparently serve to limit proposals by the more insignificant private member. They are, however, far from satisfactory. The student of French government is acquainted with the propensities of the committee on finance. Nothing short of an absolute prohibition on private initiative would seem likely to assure to the Government the position it ought to have. Yet here again improved habits would be at least as important as legal change even of the constitution itself.

Dissolution of the Chamber of Deputies. Students of French government are acquainted with the existence of Article 5 of the Law of February 25, 1875, though it has long been in a condition of desuetude. The principal part of this article runs as follows: "The president of the Republic may, with the advice and consent of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate." M. Doumergue proposed to alter this stipulation. In fact, this reform is the only one of M. Doumergue's proposals which could not have been realized except through amendment of the constitution. As has been intimated, the others could at any time be accomplished, though they would naturally lack equal moral force, through acts of Parliament and rules of procedure. The text of M. Doumergue was couched in these terms: "The president of the Republic may dissolve the Chamber of Deputies before the legal expiration of its mandate. During the first year of this mandate, dissolution may be decreed only with the advice and consent of the Senate. During subsequent years, the president of the Republic may dissolve the Chamber without the advice and consent of the Senate."

As is well known, the use of dissolution is an integral part of the operation of parliamentary government in its "true form." As is equally well known, dissolution of the Chamber of Deputies has not been employed since 1877. The text-book accounts generally attribute this desuetude to the influence of the evil memory of the *Seize Mai* incident. In reality, if blame is to be placed upon President MacMahon, less emphasis ought probably to be placed on his part in the attempt to use dissolution as an instrument for a royalist *coup*. Stress ought rather to be laid on his personal insistence, when the constitution was being framed, that the president ought not alone to possess, since he was himself unwilling alone to exercise, the power to dissolve the Chamber of Deputies. The stipulation that the Senate must consent to dissolution in effect ensured that dissolution would not normally be employed. No real relevance attaches

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to the argument that the Senate cannot be blamed in the matter when no Government since 1877 has asked its advice and consent. Every Government knew that for simple institutional and political reasons the Senate would not agree if asked. There is no wonder that M. Doumergue proposed the abolition of Senate authorization. The wonder is rather the cautious nature of his proposal.

Extended commentary on the Doumergue constitution would constitute a treatise on the French political system. The abandonment of the proposed reforms is easier to explain than it was to foresee. M. Doumergue seemed in many respects to be in a very strong position. In reality, his fall was in large part due to his own lack of adroitness. Whether or not he was ambitious to be the strong man of a strong-man government is a question which for the present will continue to be answered, not on such real evidence as exists, but on the basis of political bias. His maladroit expression of admiration for MacMahon was not so much a cause as an occasion for the opposition of the Left.

Dissolution was asserted at the time of M. Doumergue's downfall to be the central issue. In April, abolition of consent of the Senate was approved with only three dissenting votes by the large Committee on Reform of the State in the Chamber. Practically all reputable French students of parliamentary government consider this arrangement an absolute necessity for the proper working of this type of government. Most foreign students would probably agree in considering it the most important institutional reform which the French variant of the parliamentary system could realize. The crisis seemed acute enough, and popular opinion appeared strong enough to ensure success. And yet reform failed. The institutional difficulty, though it was less important, is most obvious. The reform proposed involved a diminution in the power of the Senate. It could be accomplished only by constitutional amendment, according to a process in which a beginning cannot be made without the consent of the Senate. The reluctance of the Senate to go into National Assembly is well known and, at any time, natural enough. Such reluctance would seem the more natural in respect of a reform aimed at the Senate itself. And then the Senate is a stronghold of Radicalism.

There seems to be on principle nothing undemocratic about the power of dissolution. Rather, the contrary appears to be true. The Socialists, speaking through their talented leader, M. Léon Blum, whose theory and practice, however, do not always agree, appeared well founded when they insisted that dissolution was the real issue and that it was the only satisfactory means of referring to the people a conflict between the legislature and executive. However, the Radicals and Socialist Radicals refused to view the matter in this light. That this party was able to block reform and to cause M. Doumergue's fall is a most interesting example

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of the kind of thing that renders internal French politics so fascinating. That, however, is another story.

ROBERT K. GOOCH.

University of Virginia.

The Hitler Referenda. Although the ultimate form of the National Socialist political system in Germany is not yet clear, certain institutions are emerging which bid fair to make more than a passing claim to perdurance in that system. Among these, surprisingly enough, is the popular referendum. Apparently doomed to obsolescence towards the end of the republican period because it was proving to be superfluous in a representative régime and too radically democratic, it has suddenly been accepted as a leading constitutional practice in a Germany which is dedicated to the extirpation of political democracy. In somewhat more than ten months, the Hitler cabinet has twice requested and received popular verdicts at the polls, a record of nation-wide popular consultations which is exactly equivalent to that of the fourteen years of the Republic.

The first intimation that Herr Hitler and his colleagues contemplated this adventure in political democracy came on July 14, 1933. Exercising the plenary powers which had been conferred upon it by the Reichstag, in March, 1933,[1] the German cabinet decreed that it would have authority to hold plebiscites in the future on questions of national policy and also on laws which the cabinet had enacted.[2] The authority thus arrogated unto itself, the cabinet proceeded to use for the first time on November 12, 1933, when it asked the electorate to render an opinion on the German government's abrupt withdrawal from the Geneva Disarmament Conference and upon its announced intention of withdrawing from the League of Nations. On August 19, 1934, the cabinet availed itself, a second time, of its self-appointed authority to consult the people when, following President von Hindenburg's death, it requested the electorate to pass upon its action in conferring the President's power upon Chancellor Hitler along with the official title of Reich's *Fuehrer*. In both cases the verdict was overwhelmingly favorable to the cabinet's action, and the resulting satisfaction in official circles offers assurance that other referenda will be held should public policy demand them.

Although nominally the same institution as that which existed in the republican period, the referendum in the Reich has been modified by its Nazi adaptors in many essential respects. In the first place, the right to

[1] See *Reichsgesetzblatt* (cited hereafter as *RGB*), Part I, 1933, 141.

[2] *RGB*, Part I, 1933, 479; this law, in English translation, is included, with other decrees of the Hitler cabinet, in Pollock and Heneman, *The Hitler Decrees* (Ann Arbor, 1934), pp. 13–14.

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consult the electorate has become an official monopoly, exclusive privileges in this respect having been vested in the cabinet. Executive authority to initiate a referendum had been recognized, to be sure, prior to 1933, in those clauses of the Weimar constitution which had authorized the President, acting through his cabinet, to invoke the referendum for the resolution of conflicts of opinion between the Reichstag and Reichsrat and between the Reichstag and the cabinet.[3] Along with this presidential initiative, however, there had also been a full-fledged popular initiative inhering in private persons or organizations which, in practice, had been exercised by the political parties opposed to the government of the day.[4] Although the Hitler statute vesting in the cabinet the power to call a referendum did not explicitly repeal the popular initiative, subsequent ordinances have left no doubt on that score.[5]

A second important departure from the republican conception of the referendum is to be noted in the complete extinction by the Nazis of all the former local manifestations of that institution. Before Hitler came to power, all of the constitutions of the German *Länder* had provided for some form of popular legislative activity.[6] These provisions have now been liquidated as the result of the liquidation of popular government within the respective *Länder*, the revocation of their republican constitutions, and the subordination of their respective governments to the government of the Reich.

The Nazi adaptors have also made at least one important change of a technical character in the republican regulations governing the operation of the referendum. This is to repeal the former rule that an amendment to the Constitution could not be considered adopted in a referendum unless at least one-half of the registered voters had endorsed it.[7] In the new Reich, a simple majority of the participants are competent to decide.[8] This change also operates to cancel the rule of the republican period that an ordinary law of the Reichstag could not be annulled in a referendum unless at least one-half of the electorate had participated.[9] Experience

[3] See Constitution, Arts. 73–74.

[4] Initiative petitions from private sources, accompanied by draft laws, had first to be sent to the Reichstag, whence, in case of rejection, they were automatically submitted to the electorate. For a discussion of this procedure and the operation of the referendum in Germany under the Republic, see the author's *Experiment With Democracy in Central Europe* (New York, 1933), pp. 95–105.

[5] See Ordinance of October 14, 1933, on the Popular Referendum, *RGB*, I, 1933, 732.

[6] See author's *op. cit.*, p. 103; also Lee S. Greene, "Direct Legislation in the German *Länder*," in this REVIEW, Vol. 28, pp. 445–454.

[7] Constitution, Art. 76.

[8] Art. 2 of Law of July 14, 1933, on the Popular Referendum, *RGB*, I, 1933, 479.

[9] Constitution, Art. 75, and Para. 21, Sec. 2, Law of June 27, 1921, on the Popular Referendum, *RGB*, I, 1921, 790 ff.

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had demonstrated that the effect of this rule was to encourage opponents of a popularly initiated proposal to boycott the polls in the hope that the lack of the requisite number of participants would invalidate a favorable verdict by those who did participate.

With the foregoing exceptions, the legal regulations governing the operation of the referendum, enacted during the republican period, have remained in force. They are chiefly of a technical nature. Among other matters, these regulations establish direct and secret voting, provide for the constitution of electoral commissions in each district to superintend the voting, determine the tests of a valid ballot, and provide for the canvassing and validation of returns and their official publication by the minister of the interior.[10]

For the referenda held under its auspices, the government of the Third Reich has also continued republican Germany's franchise laws. These fix the minimum voting age at 20 (less than the age of civil majority) and grant the ballot to every citizen. In harmony with the liberality of this suffrage policy, the Nazi minister of the interior has also made elaborate provisions to facilitate absentee voting. In an ordinance adopted just before the referendum on the League of Nations, he described in the greatest detail the manner in which citizens on German ships or in foreign lands might cast a valid ballot. Frontier towns and cities were designated as voting centers for Germans only a short distance from the homeland, and principal railway stations all over the Reich were impressed into service as legal voting places for Germans travelling within the confines of the Reich on referendum day.[11]

In preparing the ballot for the first of the two referenda, that on the League of Nations, the plans of the minister of the interior were changed from time to time. The first ordinance of his department, issued on October 14, 1933, provided for a simple ballot of bucolic green paper, containing a statement of the query on policy addressed by the cabinet to the German people underneath which were two circles labeled "yes" and "no," in one of which the voter was to insert a cross.[12] Within a few days it was apparently decided that the form in which the query had been cast was neither sufficiently impressive nor persuasive, and an amending ordinance was issued rephrasing the query so that it was addressed to the individual German man or woman in the familiar "du."[13] Finally, on October 20, a third ordinance was issued on the subject. This directed that the ballot, still of green paper, was to be enlarged so as to

[10] See Ordinance of October 14, 1933, on the Popular Referendum, *RGB*, I, 1933, 732, and Law of June 27, 1921, on the Popular Referendum, *RGB*, I, 1921, 790.

[11] First Ordinance of October 14, 1934, on the Reichstag Election and the Popular Referendum, *RGB*, I, 1933, 733–736.

[12] *RGB*, I, 1933, 732.

[13] *RGB*, I, 1933, 742.

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include not merely the cabinet's query to the German voter, but the cabinet's entire proclamation of October 14, about a printed page in length, in which was summed up the complete policy towards the League and the Disarmament Conference and the reasons for calling the referendum.[14] By the time the referendum was finally held, the voter was presented with a ballot almost as formidable in appearance, albeit not quite as intricate, as those which greet American voters who are called upon to ratify constitutional amendments.

Greater dispatch was displayed in preparing the ballot for the second referendum, that on the *Reichsfuehrerschaft*. The rules respecting the arrangement of the ballot paper, developed in October, 1933, were generally observed. On this occasion, the voter was presented with a copy of the cabinet's law of August 2, 1934, investing the Chancellor with presidential authority. This was followed by the general question: "German man and German woman, do you approve of this law?"[15]

The most interesting feature of both referenda was the campaign. Despite the absence of an organized opposition, the cabinet made a prodigious effort to elicit support for its point of view. Needless to say, the entire propaganda machine which Nazi Germany has taken such pains to perfect was called into play and every resource of that machine, coördinated and directed by the propaganda ministry, was placed at the disposal of the cabinet. Unquestionably it was upon the efficacy of this machine that the Nazi leaders chiefly relied for favorable results.

Although the government-controlled press and cinema did their part, the instrument chiefly favored by the campaign strategists was the radio. Throughout the two campaigns, which involved a period of four weeks prior to the first referendum and a period of somewhat more than two weeks prior to the second, a daily barrage of patriotic verbiage poured into the more than four and one-half million registered receiving sets in the Reich. These appeals came chiefly from the leaders, from the *Reichsfuehrer* himself, and from Premier Goering of Prussia, Dr. Goebbels, the propaganda minister, Dr. Frick, the minister of the interior, Dr. Rosenberg of the *Völkischer Beobachter*, and Dr. Schacht, president of the Reichsbank and now minister of economics as well. The most picturesque, as well as the most impressive, of these radio appeals in the two campaigns was the one originating at Hamburg on August 17, 1934. In this, Herr Hitler himself urged the voters to endorse his assumption of the prerogatives of the deceased President von Hindenburg. A virtual national holiday was declared in order to permit the maximum number to listen in; amplifiers were installed in many of the principal squares of

[14] *RGB*, I, 1933, 747–748.

[15] Ordinance of Aug. 3, 1934, on the Popular Referendum, *RGB*, I, 1934, 759. The provisions of this ordinance also appear in the *New York Times*, Aug. 5, 1934.

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the larger cities, and a special request was made to the owners of receiving sets to share them with their less fortunate neighbors. Hamburg was chosen for the broadcast apparently because the electoral district in which it is included possessed the dubious distinction of having returned the lowest percentage of affirmative votes in the previous referendum on the League of Nations.[16]

In both campaigns, the strategists exploited to the full every popular or emotional appeal which chance had thrown their way or invention had secured them. In the referendum on the League of Nations, the most important of these was the position of international inequality and servitude which the Versailles Treaty and the principal Powers in the League were alleged to have thrust upon Germany. The patriotic response to this campaign cry was naturally overwhelming. In the referendum on the *Reichsfuehrerschaft*, the *pièce de résistance* was the need for co-ordinating German political leadership. Speakers made much of this necessity; both Dr. Frick and Dr. Goebbels insisted that Germany must show foreign nations that it is unitedly behind its leader. They referred to the deceased President von Hindenburg's political testament in which he allegedly named Hitler as his successor, and the propaganda minister even invoked the voice of the deceased by broadcasting an electrical recording of a plea for unity which the former president had addressed to the nation in November, 1933, just prior to the referendum on the League of Nations.

That all this strategy was successful was demonstrated by the voting in both referenda. Even after discounting intangible official pressure, of which there undoubtedly was a great deal, and downright coercion and intimidation at the polls, of which there was probably very little, the electoral record remains an amazing one, both as respects participation in the balloting and the endorsement given the cabinet's policy. The liberal franchise provisions of the laws place more than forty-five millions, or almost two-thirds of the total population of Germany, upon the voters' rolls. In the referendum of November, 1933, somewhat more than 96 per cent of these, or approximately forty-three and one-half millions, cast a ballot. Of these, forty and a half millions, or about 95 per cent of the participants, voted in favor of the cabinet's action in withdrawing from the League and the Disarmament Conference, while two and two-thirds millions, or about six and one-half per cent, either voted against the cabinet or cast invalid ballots. The referendum on the League was held at the same time as the election to the all-Nazi Reichstag, and there was some variation between the results of the two. A half-million less votes were cast in the election than in the referendum, and the "no's" in the election were about one per cent higher than the total of opposition votes

[16] For a description of this event, see *New York Times*, Aug. 17, 1934.

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and invalid ballots in the referendum. Apparently a few voters at least discriminated between the government's policy and the government itself.

Throughout the thirty-five voting districts of the Reich, the proportions of affirmative and negative votes established in the grand totals of the referendum on the League were generally maintained; nevertheless, slight variations occasionally occurred which, considering the circumstances, may be regarded as significant. Honors for participation went to the district of Pfalz, comprising northwest Bavaria, which, next to the district of Mecklenburg, has the smallest number of registered voters in the Reich. Pfalz secured a participation of 98.4 per cent. The weakest record of participation was scored in the metropolitan district of Potsdam II, comprising some of the better class Berlin suburbs in the province of Brandenburg. Indifference among the voters here brought the record down to 90 per cent. Honors for casting affirmative ballots went to rural East Prussia, pampered Junker stronghold and enthusiastic supporter of the original von Hindenburg, von Papen, and Hitler alliance. In this district, 97.3 per cent of the voters favored the cabinet's declaration of policy towards the League. The least enthusiastic support offered in any of the districts—an affirmative vote on the part of 83.9 per cent of the participants—came from the former Communist stronghold of Hamburg. Speaking generally, the heaviest affirmative voting took place in the rural areas of East Prussia, in the Catholic Rhineland, and in South Germany, particularly in Bavaria, Baden, and Württemberg. The opposition, such as it was, came mainly from the voting districts embracing some of the larger cities, particularly such cities as Berlin, Leipzig, Hamburg, and Lübeck. Thus in November, 1933, traces, at least, appeared of an electoral attitude which comported with the distribution of political views in the Germany whose citizens just twelve months earlier had distributed their allegiance among many parties.

The results of the second referendum displayed noteworthy contrasts to the first. Though overwhelmingly favorable to Chancellor Hitler's addition of the presidential powers to those of the chancellorship, the affirmative vote dropped more than five per cent, from 95 per cent recorded in the League referendum to somewhat less than 90 per cent. The most loyal support again came from East Prussia, where 96 per cent of the voters cast their ballots for Herr Hitler; the most disloyal, or rather the least loyal, was again the Hamburg electoral district, in which, despite the special efforts of the *Reichsfuehrer* during the campaign, less than 80 per cent of the voters cast affirmative ballots. Incidentally, this was almost five per cent less than the record of affirmative votes in the Hamburg district in November, 1933. Again some of the larger cities such as Hamburg, Berlin, Köln, Leipzig, and Lübeck contributed dispropor-

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tionately to the opposition vote. One of the more significant features of the results in the second referendum was the relatively large defections in the Rhineland from the ranks of the supporters of the Hitler cabinet in November, 1933. In the Central Rhineland, in the area about the cities of Köln and Aachen, fully 11 per cent fewer voters supported Hitler in August, 1934, than in November, 1933. In the area about Koblenz, the reduction in affirmative votes reached eight and one-half per cent. Notable decreases, ranging from four to eight per cent, were recorded also in Berlin's suburbs, in Westphalia, Lower Saxony, and Hesse.[17]

Some of the opposition in this second referendum, particularly that in the Rhineland, may be attributed to the Nazi cabinet's ecclesiastical policy; although in Bavaria and generally throughout South Germany, an area even more severely affected by that policy, the vote for the cabinet was almost as favorable as it had been ten months before. Among the remaining factors which contributed towards reducing the cabinet's votes the circumstances attending the so-called "Roehm revolt" of June 30, 1934, must certainly be included. It is probably also true that some of the voters, a discriminating handful at least, were inclined to be more reserved about a matter of internal constitutional policy than they had been about a matter of foreign policy the incidents of which had long affected the innermost sensibilities of every patriotic German.

[17] Following is a summary of official returns in the two referenda:*

	Referendum of Nov. 12, 1933, on the League Nations	Referendum of Aug. 19, 1934, on the *Reichs-fuehrerschaft*
Number of registered voters:	45,141,954	45,474,157
Number of registered voters participating	43,452,613	43,530,232
Per cent of registered voters participating	96.3	95.7
Number of "yes" votes	40,601,577	38,363,195
Per cent of "yes" votes in total of valid ballots cast	95.0	89.9
Number of "no" votes	2,100,765	4,294,727
Per cent of "no" votes in total of valid ballots cast.	5.0	10.1
Number of valid ballots	42,702,342	42,657,922
Per cent of valid ballots	98.3	98.0
Number of invalid ballots	750,271	872,310
Per cent of invalid ballots	1.7	2.0

* These figures are derived from official results. Cf. *Die Wahlen zum Reichstag und die Volksabstimmung am 12. November 1933*, *Wirtschaft und Statistik*, Vol. 13 (July–Dec., 1933), p. 684, and *Die Volksabstimmung über das Staatsoberhaupt des Deutschen Reichs am 19. August 1934*, *ibid.*, Vol. XIV (July–Dec., 1934), p. 552. The results of the referendum on the *Fuehrerschaft* may be obtained also from the *Deutscher Reichsanzeiger* for Sept. 6, 1934. As given in this publication, they vary somewhat from the above.

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The reasons which explain this experimentation with the referendum in the Third Reich are not difficult to discern. There has been, in the first place, the hope that the mass demonstrations of loyalty which the referendum was expected to evoke would convince foreign opinion of German unity under Hitler's leadership and persuade those foreigners who still have doubts about the perdurance of the régime to put those doubts aside. This purpose has been stressed again and again by the Nazi ministers. "The world must be informed," said Dr. Frick, just before the 1934 referendum on the *Reichsfuehrerschaft*, "that it is a downright lie if the foreign press asserts that Germany is ruled by an irresponsible dictatorship; on the contrary, Germany is ruled by a government resting on the overwhelming vote of the German people!"[18] The referendum of November 12 bore directly on an international question and was obviously designed to show Geneva that the German Foreign Office and the Nazi leaders really were expressing the nation's sentiment and not merely echoing Nazi bravado.

It is apparent, too, that as the leaders of Hitler's Reich have become aware of the ease with which they may control and coördinate opinion, they have come to look towards the referendum for a legalization of their constitutional position. This first became noticeable on January 30, 1934, when the all-Nazi Reichstag enacted the famous law which formally established the Third Reich. The preamble to that law stated in substance that a mandate for the complete reorganization of the Reich had been implied by the virtually unanimous popular verdict of approval given the government's policy on November 12, 1933, in the referendum on the League of Nations.[19]

Even more convincing evidence that the referendum is to be used to sanction the Nazi state is to be derived from some of the official statements made prior to its second application, in August, 1934. Although maintaining that the cabinet's action of August 2, 1934, vesting the powers and duties of the deceased President von Hindenburg perpetually in the chancellor's office, was constitutionally valid, Herr Hitler nevertheless demanded that it should receive the express sanction of the German people. In his letter to Dr. Frick requesting arrangements for the referendum, the *Reichsfuehrer* referred to himself as one who is "steeped in the conviction that the authority of the State proceeds from the people and must be ratified by them in a free, secret referendum."[20] Coming from one who has never ceased to castigate democratic methods

[18] *New York Times*, Aug. 13, 1934.

[19] Law of Jan. 30, 1934, for the Reorganization (*Neuaufbau*) of the Reich, *RGB*, I, 1934, 75.

[20] Edict of the Reich's Chancellor and Resolution of the Reich's Cabinet of Aug. 2, 1934, *RGB*, I, 1934, 751, 752.

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of government, this surprising statement can mean only that the leader of National Socialism has made a *volte face*, that hereafter the National Socialist state will be presumed to rest upon popular will rather than upon the somewhat mystical authoritarianism which characterized its earlier foundations.

It must be added that this revolutionary change in Herr Hitler's political theory has an intensely practical explanation. In his evolution as dictator of the German people, the time had arrived when he needed a fresh mandate of authority—one, moreover, from an unassailable source. The death of President von Hindenburg had removed the link which originally legalized his succession to power in the Reich, and the "Roehm revolt" of June 30, 1934, moreover, made it perfectly clear how unstable a mere party mandate for the exercise of that power might ultimately prove to be. Hitler accordingly ordered the referendum with a view to removing any possible constitutional stain from his official position of leadership and at the same time to free himself from subordination to the shifting clanship of a political party. His action makes it possible to regard him as the first of the contemporary dictators to attempt seriously to establish his power on some basis other than an authoritarian political party, a military following, royal prestige, or a sham parliamentary mandate. The German *Reichsfuehrer* has gone beyond these familiar bases of modern dictatorship and has attempted to substitute for them the Napoleonic constitutional basis of the plebiscite.

From the point of view of a foreign observer, the most interesting aspect of this experience with the popular referendum in the Third Reich continues to be the extraordinary success attending the cabinet's efforts to control the political behavior of the citizens. To mobilize almost forty-five million voters and so regiment their opinions on international and constitutional issues as to secure a favorable verdict little short of unanimity is a political achievement with few, if any, parallels. Should any doubts remain as to the practical political value of the Nazi propaganda ministry, or as to its effectiveness, these referenda must certainly dispel them. Nor could any better evidence than is furnished by these same referenda be adduced to confirm the truth of the observation that liberal suffrage laws and success in "getting out the vote" do not guarantee genuinely democratic government; that, on the contrary, such government depends primarily upon certain intangibles such as a free press and impartial officials, and above all upon an informed and critical electorate.

ARNOLD J. ZURCHER.

New York University.

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Professor William Anderson, of the University of Minnesota, has been appointed acting professor at Stanford University for the coming summer quarter.

Professor Karl F. Geiser, for many years chairman of the department of political science at Oberlin College, will retire at the close of the present academic year.

Dr. L. F. Schmeckebier, of the Institute for Government Research, Brookings Institution, is assisting the Liquor Study Committee of New York. His work has to do with the administrative features of alcohol control.

Professor William E. Mosher, of Syracuse University, is on leave of absence for the year, and is directing an electric rate survey for the Federal Power Commission in Washington.

Professor Joseph P. Harris is absent on leave from the University of Washington during the current academic year and is serving as technical assistant to the national Committee on Economic Security.

Professor Finla G. Crawford, of Syracuse University, has been appointed by Governor Lehman to serve as a member of the New York State commission on unemployment relief, which is investigating the present relief burden and methods of achieving a more permanent set-up.

Dr. Howard P. Jones, secretary of the National Municipal League and editor of the *National Municipal Review*, is serving as lecturer in government at New York University and is in charge of graduate courses regularly given by Professor Roy V. Peel, at present on leave of absence.

Professor Quincy Wright returned to the University of Chicago in December after a two-months, sojourn in Europe. He visited England, France, Switzerland, Austria, Germany, and Russia. Early in November, he delivered a series of lectures on "The Causes of War" at the Geneva School of International Studies.

In response to an invitation from the Ministry of Education, Professor Arthur N. Holcombe, of Harvard University, sailed for China in January to serve in an advisory capacity at Nanking until September.

Dr. N. D. Houghton has lately been advanced from an associate to a full professorship at the University of Arizona.

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During recent months, Professor Leonard D. White, now a member of the U. S. Civil Service Commission, addressed graduate and undergraduate students at the University of Pennsylvania, Dartmouth College, Smith College, and the University of Delaware.

Professor James K. Pollock, of the University of Michigan, served as one of six presidents of district election boards for the Saar plebiscite of January 13. The appointment was made by the international commission established by the Council of the League of Nations to govern the Saar district.

Mr. Charles S. Ascher has returned to his duties in Chicago as secretary of the Public Administration Clearing House and editor of the publications of the Public Administration Service.

During the absence of Professor Grayson L. Kirk from his teaching post at the University of Wisconsin in the second semester, Professor Donald C. Blaisdell, of Williams College, is a visiting member of the department and is offering courses on international relations.

Professor A. B. Butts, vice-president and professor of government at Mississippi State College, will take office on July 1 as chancellor of the University of Mississippi.

Dr. Johannes Mattern, of the Johns Hopkins University, has been elected chairman of the N.R.A. state adjustment board of Maryland, and Professor James Hart, of the same institution, has accepted membership in the regional labor relations board for the Fifth District.

Dr. Coleman Woodbury, formerly of the staff of the Institute for Research in Land Economics at Northwestern University, secretary of the Illinois State Housing Board, and a consultant to the Housing Division of the Public Works Administration, has become executive director of the National Association of Housing Officials, which has its headquarters at 850 E. 58th Street, Chicago.

Professor Pitman B. Potter, of the Institute of International Studies at Geneva, is serving as adviser to the delegation of Abyssinia in connection with the case against Italy which that country has recently submitted to the Council of the League of Nations.

Professors S. D. Myers, of Southern Methodist University, and H. C. Nixon, of Tulane University, have been appointed members of the Southern Regional Committee of the Social Science Research Council.

Mr. Philip H. Taylor, of Stanford University, has been appointed instructor in international relations at Syracuse University. Mr. Howard M. Kline has also been appointed instructor in political science in the School of Citizenship and Public Affairs.

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At the opening of the present academic year, Professor A. T. Prescott, head of the department of government at Louisiana State University, reached the age of retirement and was placed on the retired list. Unwilling to concede, however, that his active teaching years were ended, he went to the University of the South, where he is now head of a newly established department of government. Meanwhile, Professor R. L. Carleton is acting as head of the department at Louisiana.

The Brookings Institution is conducting a preliminary administrative survey of the state of Oklahoma. This is being done through the Institute for Government Research under the immediate direction of Dr. Arnold B. Hall. The subjects of inquiry are education, welfare, revenue, and financial administration.

Count Carlo Sforza, formerly Italian minister of foreign affairs and long a welcome lecturer and round-table leader at American universities, served as visiting professor at Emory University during the period January 28 to February 16, speaking principally on "Political and Moral Problems of Post-War Europe." He participated also in the eighth annual session of the Institute of Citizenship held at Emory on February 11–15 and devoted largely to "Political and Economic Problems of the South."

Professor J. Catron Jones, on leave from the University of Kentucky, died on December 29 at Washington, D.C., where he was serving as an assistant to Professor William E. Mosher in the rate survey now being conducted by the Federal Power Commission. Professor Jones was a graduate of Transylvania University and received his doctor's degree from the Brookings School in 1925. He had been connected with the University of Kentucky since 1921—as chairman of the department of political science since its creation in 1926. Professor Amry Vandenbosch has recently been made permanent chairman of the department.

The Council on Foreign Relations has lately taken an active part in the proceedings of the International Studies Conference, in which fourteen national and five international institutions are represented. At the next conference, later in the present year, the subject for consideration will be "Collective Security." The Council has appointed a special committee to prepare the American report on this subject, with Mr. Allen W. Dulles as chairman and Mr. William O. Scroggs as secretary.

The United States Conference of Mayors has presented a petition to the National Resources Board calling for a wide series of national studies upon urban problems. Specific studies which the Conference desires prosecuted include the revenue problem of metropolitan areas, housing in large industrial centers, land use, and the effects of population decentralization.

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A Kansas political science conference was held at Lawrence on December 13-14 under the auspices of the Committee on Policy of the American Political Science Association. The general topic was "Economy in Governmental Organization and Procedure," and the discussions were participated in by twelve political scientists, eight public officials, and seven representatives of the general citizenry. Professor John A. Fairlie, of the University of Illinois, was a special representative of the Political Science Association.

The Norman Wait Harris Memorial Foundation of the University of Chicago will hold its next Institute in the summer quarter of 1935, probably from June 24 to July 5. The subject will be "The Soviet Union and World Problems." It is hoped that a number of representatives from the U.S.S.R. will attend. In lieu of an Institute in 1934, the Foundation Committee prepared a statement of recommendations with regard to current problems in the international relations of the United States. This was published by the University of Chicago Press on November 30 as Public Policy Pamphlet No. 14 under the title of "An American Foreign Policy—Toward International Stability."

A special series of weekly lectures by visiting professors on the general subject of the relations between government and business is being carried through the year in the department of political science at the Johns Hopkins University. Participants include Professors Gardiner C. Means, Karl Llewellyn, R. M. MacIver, Carl J. Friedrich, Philip C. Jessup, and Bronislaw Malinowski. In conjunction with the lectures, a series of faculty discussions is being conducted on the general subject of the present state of political science as an academic discipline.

At the annual meeting in Paris, in October, of L'Institut International de Droit Public, Professors Howard L. McBain, Walter F. Dodd, Thomas Reed Powell, and Lindsay Rogers were elected associate members. At the same meeting, Professor James W. Garner, of the University of Illinois, was elected president of the Institute to succeed M. Politis. In addition to its *Annuaire* of 867 pages, the Institute published during the past year a number of monographs, each written by a distinguished European publicist.

The third conference on the teaching of the social sciences in the secondary schools was held at Cazenovia, New York, on December 14 and 15. This conference was concerned with the program for social science courses for grades seven to twelve. The state department of education in New York has recently determined to revise its social science program along this line. The conference was attended by members of the syllabus committee, the advisory committee, representatives of the state depart-

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ment of education, and political scientists from Syracuse and Colgate Universities.

Efforts to improve the interchange of information in the field of municipal law as between the law department of larger American cities have brought into existence the Institute of Municipal Law Officers. Organized at the recent annual conference of the United States Conference of Mayors, the Institute will seek to develop a series of services designed to assist corporation counsels, city attorneys, and city solicitors in their work. Headquarters have been established at 850 East 58th Street, Chicago, with Paul V. Betters as executive director, and the Institute will function in close coöperation with other organizations of municipal officials located at Chicago.

Under the auspices of the Committee on Policy of the Political Science Association and the department of history and political science of Tulane University, a conference on municipal government and administration was held at New Orleans on December 3-4. Mr. George F. Milton, of the *Chattanooga News*, presided, and the membership was divided equally between academic and "practical" men (the latter including politicians of both the Long and Walmsley factions). Professor Cullen B. Gosnell, of Emory University, attended as a special representative of the Association. The topics dealt with included municipal finance, city-state relationships, relief and welfare, and the development of informed opinion on trends and problems of government.

A conference on "Current Problems of State Taxation," under the joint auspices of the Committee on Policy of the Political Science Association and Stanford University, was held in San Francisco on December 7 and 8. Ten university professors, ten public officials, ten citizens (including four who had held important public offices), and five representatives of civic organizations attended. The discussions turned about the unbalanced state budget and the administration of the amendments of the constitution in 1933 which repealed and considerably changed the old separation system of 1911. A new comprehensive tax plan based upon existing constitutional and statutory provisions and framed to meet both emergency and future conditions was presented and discussed. Under the conditions of these conferences, no plan or program was adopted. However, it was obvious to all in attendance that the two-day discussion between those who have the practical problem of facing the legislature with an unpopular program and the academic members of the conference was of great benefit to both groups. It was expected that many conclusions of the conference would find their way into the proposed legislation of the next legislative session.

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The University of Illinois recently issued a bulletin pointing out opportunities for public service in the field of public administration and the university's facilities for training for such service. Positions with local, state, and national government for which university training is useful or necessary are grouped into three main classes: (1) technical positions requiring training in engineering, agriculture, or the physical or biological sciences; (2) positions requiring training in the older professions of law, medicine, and teaching; and (3) administrative positions requiring training in accounting, economics, law, and public administration. The University of Wisconsin plans a new and extended program of training for government service. It will consist of four years of undergraduate work in the general problems of government and economics, two years of intensive study of a special problem or a particular field, and one final year of study, observation, and active apprenticeship in appropriate government departments.

Hearings on the Codes of Fair Competition held under the National Industrial Recovery Act, 68 film volumes, and the *Hearings on the Marketing Agreements, Codes, Licenses, and Processing Tax Matters of the Agricultural Adjustment Administration*, 58 film volumes, copied by the Joint Committee on Materials for Research (Washington, 1934). In response to library requests, the Joint Committee on Materials for Research of the American Council of Learned Societies and the Social Science Research Council is making available in film form the materials relating to the N.R.A. and A.A.A. hearings. The A.A.A. materials comprise 136,000 documents, which include the stenographic reports of the hearings and copies of data submitted in support of testimony prior to and subsequent to the hearings in the form of letters, telegrams, petitions, case studies, charts, statistical tables, pamphlets, books, etc. The N.R.A. materials comprise 150,000 documents, which do not include the inaccessible confidential data known officially as A and B material, but which contain transcripts of all the testimony and exhibits submitted during the hearings. Film copying was considered the only feasible method of reproduction, since the cost per page was reduced from two cents charged by the official reporters to approximately one-eighth cent, and since the film produced is relatively permanent and non-inflammable and requires little storage space. With the assistance of a *Guide* to the A.A.A. and an *Index* to the N.R.A. films, which will be furnished with the film sets, the materials can be handled more easily in film form than in their original form. If read by means of a Recordak projector (Model No. 8 or the Library Model, taking both 16 and 35 mm. film), the film is fully as legible as the original. In accordance with its plans for a publishing service, the Joint Committee will furnish film copies at cost on a sliding scale basis, whereby

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the price of each set is determined by the number of subscriptions. Each subscription will include a fixed charge of $2\frac{3}{4}¢$ per foot for the positive film copy plus a charge designed to amortize the expenses incurred in making the original master negative. A set of the N.R.A. films will be furnished on payment after receipt of invoice of an initial sum of $200 and on agreement to pay an additional sum, to be determined by the number of subscriptions received by March, 1935, which is not to exceed $29.70. For the A.A.A. films an initial payment of $170, plus a charge not exceeding $22.78, will be required. Inquiries should be addressed to T. R. Schellenberg, Executive Secretary, Joint Committee, Western Reserve University, Cleveland, Ohio.

Under the auspices of the Committee on Civic Education by Radio and the American Political Science Association, in coöperation with the National Municipal League, a tenth series of "You and Your Government" radio talks was started on February 5, on the general topic, "The Forty-four State Legislatures of 1935." The full program is as follows:

February 5: "The One House Legislature"
Senator George W. Norris, Nebraska
February 12: "Government by the People"
Hon. John G. Winant, Former Governor of New Hampshire
February 19: "Simplification of Local Government"
Hon. Seabury C. Mastick, Chairman, New York State Commission for the Revision of the Tax Laws
Howard P. Jones, Secretary, National Municipal League
February 26: "How Can The Legislatures Help the Police?"
Chief Andrew J. Kavanaugh, First Vice President, International Association of Chiefs of Police
Donald C. Stone, Director, Consulting and Research Division, Public Administration Service
March 5: "Providing a Liquid Market for Home Mortgages"
James A. Moffett, Federal Housing Administrator
March 12: "Financing Emergency Relief"
Arch Mandel, Field Representative, F.E.R.A.
Frederick I. Daniels, Executive Director, New York State F.E.R.A.
March 19: "Liquor Laws and Enforcement"
Hon. Edward P. Mulrooney, Chairman, New York State Alcoholic Beverage Control Board
March 26: "The Public's Responsibility for Legislation"
President Harold W. Dodds, Princeton University
April 2: "Interstate Coöperation in Combating Crime"
Raymond Moley, Editor, *Today*
April 9: "Solving Local Tax Problems"
Governor Harold G. Hoffman, New Jersey
April 16: "Tax Limitations"
Professor Simeon E. Leland, University of Chicago
April 23: "Social Insurance"
Governor Philip F. LaFollette, Wisconsin

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April 30: "Overhauling Criminal Procedure"
William Draper Lewis, Director, American Law Institute
May 7: "The Model Tax Plan"
T. V. Smith, State Senator, Illinois
James W. Martin, Research Director, Interstate Commission on Conflicting Taxation
May 14: "How To Collect Taxes"
Arnold Frye, Attorney, Hawkins, Delafield, and Longfellow
Philip H. Cornick, Staff Member, Institute of Public Administration
May 21: "Safety Regulations"
John E. Long, President, National Safety Council
May 28: "State Councils"
Governor H. Styles Bridges, New Hampshire
Stephen B. Story, Fiscal Agent, State of New Hampshire
June 4: "State Control of Municipal Finance"
L. P. Mansfield, Supervisor, Bond Dept., Prudential Insurance Company of America
June 11: "The State Legislative Product of 1935"
Henry W. Toll, Director, American Legislators' Association
Hubert R. Gallagher, Research Consultant, same

Thirtieth Annual Meeting of the American Political Science Association. After an interval of six years, the Association again met in Chicago, on December 26–29, 1934, with headquarters at the Hotel Sherman. The registered attendance was 310, as compared with 360 at Philadelphia in 1933, 200 at Detroit in 1932, and 353 in Washington in 1931; also with 235 at the last previous Chicago meeting, in 1928. The program, made up largely of round-table sessions, and devoted in considerable part to topics and issues related to government in a period of national recovery and reconstruction, was as follows:

Wednesday Evening, December 26

GENERAL SESSION

(JOINT MEETING WITH THE AMERICAN ECONOMIC ASSOCIATION, AMERICAN STATISTICAL ASSOCIATION, AND AMERICAN SOCIOLOGICAL SOCIETY)

Presiding Officer: Edwin R. Embree, Rosenwald Fund, Chicago

General topic: "RECENT ECONOMIC, SOCIAL, AND POLITICAL CHANGES."
"The Paths of Economic Change: Contrasting Tendencies in the Modern World"—Calvin B. Hoover, Duke University.
"Man and His Changing Institutions"—William F. Ogburn, University of Chicago.
"Recent Trends in American Government"—Charles E. Merriam, University of Chicago.

Thursday Morning, December 27

ROUND TABLE CONFERENCES

"CHANGING REGIONAL ALIGNMENTS IN AMERICAN POLITICS."

Chairman: H. C. Nixon, Tulane University

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Discussion leaders: Roy V. Peel, New York University; A. N. Holcombe, Harvard University; F. W. Prescott, University of Chattanooga; James K. Pollock, University of Michigan; T. S. Barclay, Stanford University; C. A. M. Ewing, University of Oklahoma.

"Symposium on the Report of the Commission on the Social Studies in the Schools."

Chairman: Ben A. Arneson, Ohio Wesleyan University

Discussion leaders: Charles A. Beard, New Milford, Conn.; Phillips Bradley, Amherst College; Earl W. Crecraft, University of Akron; Charles E. Merriam, University of Chicago; John W. Studebaker, U. S. Commissioner of Education; Howard White, Miami University.

"Implications of National Planning for International Relations."

Chairman: Frederick L. Schuman, University of Chicago

Discussion leaders: B. H. Williams, University of Pittsburgh; W. Y. Elliott, Harvard University; W. A. Rudlin, London School of Economics and Political Science; Michael Ross; Clark Forman; Maxwell Stewart, *The Nation;* Gardner L. Harding.

"The Courts and the Recovery Program"

Chairman: Robert E. Cushman, Cornell University

Discussion leaders: Forrest R. Black, University of Kentucky; Edward S. Corwin, Princeton University; Walter F. Dodd, Chicago; Oliver P. Field, University of Minnesota.

"The Technique of the Service Survey of Administration."

Chairman: E. O. Griffenhagen, Griffenhagen and Associates, Chicago

Discussion leaders: Louis Brownlow, Public Administration Clearing House; Luther Gulick, Institute of Public Administration; A. C. Millspaugh, Institute for Government Research; Thomas H. Reed, University of Michigan; Lent D. Upson, Detroit Bureau of Governmental Research.

"The Changing Financial Status of American Cities."

Chairman: Clifford W. Ham, American Municipal Association

Discussion leaders: Carl H. Chatters, Municipal Finance Officers' Association; Harold D. Smith, Michigan Municipal League; Joseph P. Harris, University of Washington; James W. Martin, University of Kentucky.

"Methods of Civic Reform in Rural Areas."

Chairman: Arthur W. Bromage, University of Michigan

Discussion leaders: William Anderson, University of Minnesota; R. C. Atkinson, Ohio Institute; John A. Fairlie, University of Illinois; J. H. Kolb, University of Wisconsin; Lane W. Lancaster, University of Nebraska; T. B. Manny, U. S. Department of Agriculture; Kirk H. Porter, State University of Iowa; Dorothy Schaffter, Vassar College; George W. Spicer, University of Virginia.

Thursday Noon, December 27

SUBSCRIPTION LUNCHEON

(Joint Meeting With the American Association for Labor Legislation)

Presiding Officer: William Anderson, University of Minnesota

General Topic: "Labor and the Recovery Program"

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"Effect of NRA Upon the Status of American Labor"—Lloyd K. Garrison, Dean of the University of Wisconsin Law School, formerly Chairman of the National Labor Relations Board.

"Administrative Problems Involved in Enforcing NRA Labor Provisions"—Arthur J. Altmeyer, Assistant Secretary of Labor.

Discussion: Selig Perlman, University of Wisconsin

Thursday Afternoon, December 27

ROUND TABLE CONFERENCES

"Problems of Adult Political Education in the United States."

Chairman: Earl W. Crecraft, University of Akron

Discussion leaders: Members of Sub-Committee on Political Education, American Political Science Association; Carroll H. Wooddy, Des Moines Adult Education Experiment; Carl F. Huth, University of Chicago.

"Training for the Public Service in a Planning State."

Chairman: Harvey Walker, Ohio State University

Discussion leaders: Leonard D. White, U. S. Civil Service Commission; W. W. Stockberger, Director of Personnel, U. S. Department of Agriculture; William Anderson, University of Minnesota; Samuel C. May, University of California; John M. Gaus, University of Wisconsin; Luther Gulick, Institute of Public Administration; Frank M. Stewart, University of California at Los Angeles.

"Marxism, Leninism, Stalinism."

Chairman: Oscar Jászi, Oberlin College

Discussion leaders: Selig Perlman, University of Wisconsin; Oakley Johnson, Editor, *The Monthly Review;* Harold D. Lasswell, University of Chicago; W. Y. Elliott, Harvard University; Lewis L. Lorwin, Brookings Institution; Francis W. Coker, Yale University; Albert Goldman, Chicago; John D. Lewis, University of Wisconsin.

"New Legal Devices in Emergency Administration."

Chairman: James Hart, Johns Hopkins University

Discussion leaders: Jerome N. Frank, General Counsel, Agricultural Adjustment Administration; Leverett S. Lyon, Brookings Institution; Milton Handler, Legal Staff, National Labor Relations Board; William G. Rice, Jr., University of Wisconsin; J. W. Tapp, Commodities Division, Agricultural Adjustment Administration.

"Public Relations of National Administrative Agencies."

Chairman: E. Pendleton Herring, Harvard University

Discussion leaders: Marshall E. Dimock, University of Chicago; John M. Gaus, University of Wisconsin; Louis Brownlow, Public Administration Clearing House; A. D. Steadman, Director of Information, Agricultural Adjustment Administration; Morton Milford, Chief of Public Relations Division, FERA and PWA; Bruce McNamee, Director of Public Relations Division, NRA; Henry Sydam, Department of Justice; Edward Bernays, Public Relations Counsel.

"Uniform Reporting by Local Governmental Units."

Chairman: Carl H. Chatters, Municipal Finance Officers' Association

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Discussion leaders: Wylie Kilpatrick, Federal Emergency Administration of Public Works; Thomas H. Reed, University of Michigan; Martin L. Faust, University of Missouri.

"Administrators and Technicians in Planning Housing."

Chairman: Charles S. Ascher, Secretary, Public Administration Clearing House

Discussion leaders: Jacob L. Crane, Jr., Consultant, National Resources Board; Charles W. Eliot, 2nd, Executive Officer, National Resources Board; Robert Kingery, Director of Public Works, State of Illinois; Ernest J. Bohn, President, National Association of Housing Officials; Coleman Woodbury, Executive Director, National Association of Housing Officials.

Thursday Evening, December 27

PRESIDENTIAL ADDRESSES

(Joint Meeting with the American Sociological Society)

Presiding Officer: Miss Jane Addams, Hull House, Chicago

"Social Planning and the Mores"—E. W. Burgess, University of Chicago, President of the American Sociological Society.

"Democracy in Transition"—Walter J. Shepard, Ohio State University, President of the American Political Science Association.

Friday Morning, December 28

ROUND TABLE CONFERENCES

"Propaganda Methods of Dictatorships."

Chairman: Harwood L. Childs, Princeton University

Discussion leaders: George E. G. Catlin, Cornell University; Erich Hula, New School for Social Research; Oscar Jászi, Oberlin College; Harold D. Lasswell, University of Chicago; B. W. Maxwell, Washburn College; William Starr Myers, Princeton University; Melchior Palyi, University of Chicago; Arnold J. Zurcher, New York University.

"The Technique of Commissions of Inquiry."

Chairman: Luther Gulick, Institute of Public Administration

Discussion leaders: Edward Bernays, Public Relations Counsel; Evans Clark, Twentieth Century Fund; Marshall E. Dimock, University of Chicago; John M. Gaus, University of Wisconsin; Harold F. Gosnell, University of Chicago; Leonard V. Harrison, Rockefeller Liquor Control Committee; Frank J. Loesch, National Commission on Law Observance and Enforcement; Fritz M. Marx, Princeton University; William E. Mosher, Syracuse University; William B. Northrup, Associate Counsel, Seabury Investigation; Julius Silver, Associate Counsel, Pecora Banking Investigation; John F. Sly, University of West Virginia.

"The Future of the Forty-eight States."

Chairman: Lloyd M. Short, University of Missouri

Discussion leaders: W. F. Dodd, Chicago; W. Brooke Graves, Temple University; A. B. Hall, Brookings Institution; A. N. Holcombe, Harvard University; R. L. Mott, Colgate University; E. M. Perkins, University of North Carolina.

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"Current Patterns in Public Welfare Administration."

Chairman: Frank Bane, American Public Welfare Association

Discussion leaders: Louis Brownlow, Public Administration Clearing House; Sophonisba P. Breckinridge, University of Chicago; Niles Carpenter, University of Buffalo; Howard Hunter, Federal Emergency Relief Administration.

"Tax Delinquency Studies."

Chairman: Lent D. Upson, Detroit Bureau of Governmental Research

Discussion leaders: Carl H. Chatters, Municipal Finance Officers' Association; M. H. Hunter; John Reis; Simeon Leland, Illinois Tax Commission; Paul V. Betters, American Municipal Association.

"The Problem of Dual Nationality."

(In collaboration with the National Council on Naturalization and Citizenship)

Chairman: Rinehart J. Swenson, New York University

Discussion leaders: Richard W. Flournoy, Department of State; Edwin M. Borchard, Yale University School of Law; Harold Fields, National League for American Citizenship; Adena Miller Rich, Immigrants' Protective League; Henry B. Hazard, Immigration and Naturalization Service, U. S. Department of Labor; Joseph P. Chamberlain, Columbia University.

Friday Noon, December 28

SUBSCRIPTION LUNCHEON

Presiding Officer: Walter J. Shepard, Ohio State University

"New Aspects of Public Service Management"—Leonard D. White, United States Civil Service Commission.

Discussion: Samuel C. May, University of California.

Friday Afternoon, December 28

ANNUAL BUSINESS MEETING AND REPORTS OF OFFICERS AND COMMITTEES

Presiding Officer: President Walter J. Shepard

Friday Evening, December 28

GENERAL SESSION

Presiding Officer: James W. Garner, University of Illinois

"The Montevideo World Program", Wallace McClure, U. S. Department of State.

Discussion: Benjamin H. Williams, University of Pittsburgh; Frederick L. Schuman, University of Chicago.

Saturday Morning, December 29

ROUND TABLE CONFERENCES

This time was left open for such Round Table groups as desired to continue their discussions through a second meeting. (Four groups did so.)

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Saturday Noon, December 29

SUBSCRIPTION LUNCHEON

Presiding Officer: Frederick L. Schuman, University of Chicago

"The Soviet Planned Economy and World Economics"—V. V. Obolensky-Ossinsky, Vice Chairman and Member of the Institute for Economic Research of the State Planning Commission, Moscow, USSR.

The Secretary-Treasurer reported a total membership of 1,801, composed as follows: life members, 46; sustaining members, 17; annual and associate members, 1,738. During the year, 180 new members were gained 213 members were lost—a net loss of 33 as compared with 55 in the preceding year. The Secretary-Treasurer was of the opinion that henceforth the trend of membership will be upward. The financial report of the Secretary-Treasurer for the year showed receipts of $8,723.89 and expenditures of $7,708.99, and a budget for 1935 was adopted estimating receipts at $8,310.00 and expenditures at $7,580.00.

At the annual business meeting, officers for 1935 were elected as follows: president, Francis W. Coker, Yale University; first vice-president, Edward M. Sait, Pomona College; second vice-president, John Dickinson, assistant secretary of commerce; third vice-president, Miss Sarah Wambaugh, Cambridge, Mass.; secretary-treasurer, Clyde L. King, University of Pennsylvania; members of the Executive Council for the term ending December, 1937: John M. Gaus, University of Wisconsin; Cullen B. Gosnell, Emory University; Dorothy Schaffter, Vassar College; Lloyd M. Short, University of Missouri; Irwin Stewart, Federal Communications Commission.

The Managing Editor's report analyzed the contents of Volume XXVIII of the Review (concluded with the December issue), commented on various problems of editorial policy, and requested authorization of editorial expenditures in the same amount as in the preceding year. On his recommendation, Professors William Anderson, Robert E. Cushman, and Thomas H. Reed were reëlected, and Professors Francis W. Coker and Kirk H. Porter were newly elected, to membership in the Board of Editors for the customary two-year term. Calling attention to the fact that the first two managing editors of the journal, Professors W. W. Willoughby and John A. Fairlie, served approximately ten and nine years, respectively, and that at the close of 1935 the present incumbent will have served ten years, the Managing Editor tendered his resignation, effective upon publication of the issue for December, 1935. It was pointed out that during 1934 the question of a change of managing editor had been discussed inconclusively by the incumbent with the Sub-Committee on Publications of the Committee on Policy, and also with the Executive Council at its September meeting in Chicago. On the present occasion,

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the Council, after discussing the situation in the Managing Editor's absence, voted to ask him to continue as long as he should remain willing to serve; and the incumbent indicated that in view of the desire expressed, he would undertake to go on for perhaps two or three years.

For the Committee on Policy, Professor Thomas H. Reed presented the regular annual report printed below. Among other reports received and filed were those of (1) William Anderson as representative of the Association in the Social Science Research Council, who called attention especially to new fellowships recently created; (2) John A. Fairlie for the *Encyclopaedia of the Social Sciences*, conveying the hope of the Encyclopaedia's management that members of the Association will subscribe in larger numbers; and (3) Frederic A. Ogg as representative in the American Council of Learned Societies, calling attention to a new fund for aid to publication of scholarly monographs and briefly mentioning a number of the Council's current research and publication projects.

In response to a cordial invitation from the Southern Political Science Association, and following a good deal of discussion of the matter, both on the present occasion and earlier, the Executive Council recommended, and the business meeting of the Association voted, that the next annual meeting be held at Atlanta, Georgia, at the customary time, and with the understanding that provision will be made for one or more joint sessions with the American Historical Association at Chattanooga, and also for an observation visit to the field of operations of the Tennessee Valley Authority.—F.A.O.

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REPORT OF THE COMMITTEE ON POLICY OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION FOR THE YEAR 1934

THOMAS H. REED, GENERAL CHAIRMAN

University of Michigan

The activities of the Committee on Policy during the year 1934 are presented in detail in reports of the several sub-committees printed below.

The Committee on Policy has this year held two meetings—one at Chicago on September 19 and the other, also at Chicago, on December 27. My own work has been largely confined to promotion of the radio series, which has been carried on again this year with the financial co-operation of the National Municipal League. Three series of talks have been presented, as follows: Seventh Series, "Reviving Local Government," February 13 to June 19, 1934; Eighth Series, "A New Deal in Local Government," June 26 to September 25, 1934; and Ninth Series, "Trends in Government," October 2, 1934, to January 29, 1935. A tenth series on "The Forty-four Legislatures of 1935" has been arranged and is printed on pages 106–107 above. Beginning with the eighth series, our time has been fifteen minutes instead of half an hour. The reduction has not, however, been an unmixed evil. While it is impossible to say as much in fifteen minutes as was formerly said in half an hour, and many of the subjects discussed would benefit from a longer treatment, it must be admitted that it is easier to sustain the interest of the radio audience for fifteen than for thirty minutes. Furthermore, speakers, when faced with the necessity of condensing what they have to say into the short period, on the whole show more snap and sparkle; and the dull ones can be only half as dull.

Another innovation this year has been my practice of introducing all speakers instead of leaving it to be done by the announcer. The thought was to make the introductions more stimulating and to provide a thread of continuity in the talks. I would welcome expressions of opinion concerning the wisdom of keeping up this practice, which is, of course, a serious burden on my time.

Beginning with the ninth series, we were shifted from the "blue" to the "red" network. Aside from the northeastern section of the United States, this has entailed almost no change in our station list. For the ninth series, the number of stations was forty-one, the largest in our history. The loyalty of the local stations, especially in the supplementary networks, which continue to take our programs year after year, is the best possible testimony to the satisfaction we have given. Station owners and managers now know that our programs are reliable—no hitch has yet

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occurred in their delivery as scheduled—and of high quality. It should be particularly interesting to political scientists that no attempt has ever been made on the part of the National Broadcasting Company to censor our programs or to suggest, even indirectly, the topics to be covered or the manner of treating them.

As has been said in previous reports, it would be possible to have programs of greater variety if the American Political Science Association had independent funds for the promotion of the programs. At present, the radio series is financed by the National Municipal League and consequently leans heavily on the side of state and local government. We are, however, the more reconciled to this situation since these are the fields of government which, on the whole, have received the least attention from other adult education agencies.

Bound volumes of the "You and Your Government" series are now available (excepting Series One, Eight, and Nine, of which there are pamphlet copies of individual broadcasts). The first four series may be purchased from the University of Chicago Press, 5750 Ellis Avenue, Chicago, Illinois, and the remaining series from the National Municipal League, 309 East 34th Street, New York City:

1. Party Politics and Government (14 broadcasts)	$1.00
2. Government in a Depression (9 broadcasts)	1.00
3. Constructive Economy in State and Local Government (7 broadcasts)	
(Series 2 and 3 are bound in one volume)	
4. Legislatures and Legislative Problems (24 broadcasts)	1.00
5. Constructive Economy in Government (15 broadcasts)	1.50
6. The Crisis in Municipal Finance (19 broadcasts)	1.50
7. Reviving Local Government (19 broadcasts)	1.50
(Series 5, 6, 7, purchased together, $3.75)	
8. A New Deal in Local Government (14 broadcasts)	1.00
9. Trends in Government (18 broadcasts)	2.00

The grant from the Carnegie Corporation made at the end of 1930 was for $67,500, payable $15,000 annually for four years, with $7,500 available for the fifth year. The Committee had hoped that a renewal of the grant for at least the full amount of $15,000 annually might be made this year. No formal application for renewal, however, has been made, for the reason that when Dr. Charles A. Beard, acting for the Committee, addressed a tentative inquiry to Dr. F. P. Keppel, president of the Carnegie Corporation, he received in reply an explicit statement that a further grant to the Committee could not be recommended. Of course, under the circumstances, there is no alternative but to accept Dr. Keppel's decision as gracefully as possible. It would be useless and undignified to press the matter further in that quarter.

The fact remains, however, that all of the reasons for financial support for organized political science advanced in Dr. Beard's presidential ad-

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dress at St. Louis and in the original memoranda of the Committee on Policy are as applicable today as ever—more so, indeed, for the Committee on Policy, with its many services, has become an institution to which the profession looks expectantly. In other words, the demand for its services is greater than ever, while it has not developed, nor could it have been expected to develop, any financial resources from which its support can be derived. The Association remains as it was four years ago, primarily a group of poor college professors with a contribution to make to society but no money to carry on those professional activities which are essential to any general public acceptance of this contribution.

There seems to be only one thing to do, and that is to seek as vigorously as possible a new source of supply. There is, happily, time to turn around. The Committee will end this year with an unencumbered balance in the treasury of about $5,400. This, with the $7,500 to be received from the Carnegie Corporation in January, will give $12,900 for the work of the Committee in 1935. At its meeting in Chicago on December 27, the Committee ordered the appointment by the general chairman of a committee of three on future support, with power to frame and submit projects and plans of reorganization. It also voted to establish a new sub-committee on materials for instruction in government in the secondary schools. These actions, together with the annual budget which appears at the close of this report, were ratified by the Council and by the annual meeting on December 28.

At the meeting of the Committee on December 27, I tendered my resignation as general chairman, but at the request of the Committee agreed to continue until the close of 1935 with the understanding that at that time my resignation will become definitely effective.—THOMAS H. REED.

SUB-COMMITTEE ON RESEARCH

The manuscript for the *Students' Guide to Materials in Political Science* was finally completed and a contract for its publication was signed on October 20, 1934. The book is to be published by Henry Holt and Company. By the terms of the contract, the Sub-Committee on Research is to pay $1,485 and in return to receive a 50 per cent royalty, the publishing company to publish 1,000 copies to sell at three dollars a copy. Of the $1,485, the sum of $1,200 is to be paid in cash and the remaining $285 is to be paid out of royalties as, if, and when they are earned.

The major activities of the Sub-Committee on Research for the year include the following events:

The first Knoxville conference, April 13 and 14, was held in coöperation with the Sub-Committee on Political Education and the research staff of the Tennessee Valley Authority. This conference was attended by representatives from the major institutions of the seven states composing the

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Tennessee Valley, representatives of the T.V.A., and a group of public men. The purpose of the conference was to bring together these research scholars, public men, and public administrators for joint counsel in the hope that there might emerge a more vital program of research, a greater degree of coöperation between these groups, and better achievements in public administration. The discussion of the conference centered about the governmental problems that were confronting the T.V.A. in the development of their program.

As a result of this conference, a Southern committee on political research was set up to coöperate directly with the research authorities of the T.V.A. This committee requested the Sub-Committee on Research to hold another conference in Knoxville, to be attended by the members of the Southern committee, the research representatives of the T.V.A., and a representative of the Sub-Committee on Research. Such a conference was held June 9 and 10. The principal business of this conference was a fuller discussion of the problems of politics and government which the T.V.A. was encountering, in the hope that the Southern political scientists would find it possible to center their time and energy on various segments of this program. It was suggested that where certain items called for extensive investigation it was hoped that the T.V.A. would be able to enter into joint arrangements with the Southern institutions whereby the resources and energies of faculty men might be released for such research as would prove valuable to the Authority.

The whole idea behind both Knoxville conferences was to bring the political scientists of the South and the T.V.A. authorities into a fuller degree of coöperation where research problems of government are involved. It seemed that the basis for such joint efforts was securely laid.

From August 27 to September 1, the Sub-Committee on Research cooperated with the Governmental Research Association in holding a conference at Cazenovia, New York. The enthusiasm and attendance at this conference surpassed all expectations. Over eighty persons were present. The conference was another effort to bring academic researchers into more intimate contact with those who are nearer the firing line. I believe that the more contacts that can be made between the academic researchers and the realities of public administration, the better it will be for both public administration and the fruitful productivity of the investigator. This does not mean that I favor what might be called "practical" or "short-time" research as distinguished from the long-time, methodical, painstaking undertaking which has always been so essential to the advancement of knowledge. What your chairman does believe, however, is that we should concern ourselves more with the problem of seeing that our long-time investigation, when completed, really gears into the political life of the day and age in which we live. Scientific genius is so rare,

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the workers are so few, and the time and energy of the average academic man who is free for investigation are so restricted that more attention should be given to seeing that long-time projects are not only encouraged but also so directed and so conceived that the ultimate product will at some place cut across the pathway of our political progress. One encouraging result from the Cazenovia conference was an expression from the members of the Governmental Research Association present of a renewed interest in the activities of the American Political Science Association and a desire to participate more intimately in its annual meeting. Contact was established between representatives of the Governmental Research Association and the program committee, and it is hoped that the coming December meeting will find the two groups working in greater harmony and participating jointly more than they have ever done before.

On September 16 to 18, the Sub-Committee on Research asked a number of members of the Association to sit in with them in a conference on research in an effort to visualize more concretely and constructively the research needs of the Association. The purpose of the conference was to secure a free and stimulating discussion of what seem to be the basic emerging problems of research in the field of government and politics. The committee hoped that there might develop a consensus of opinion as to what are some of the fundamental problems now calling for research and as to how they might be most effectively attacked by the profession. The committee particularly wished advice on questions as to professional responsibility and leadership in the field of research.

The conference did not yield any consensus of opinion as to the most useful function of the committee or as to the most fundamental emerging problems. The discussion, however, did range over the whole field of research in government and the responsibility of the profession in regard thereto. All questions were carefully canvassed and many pointed suggestions were made which will receive the mature consideration of the committee and may lead to constructive and useful action.

The Sub-Committee on Research still feels very keenly the paradoxical situation through which our profession is passing. At a time when new government experiments and adventures are calling for professional research of increasing scope and intensity, the members of the profession, because of cramped budgets of educational institutions, are having less time and energy to devote to the problems of investigation. While these circumstances augment the difficulties of the profession, they do not release us from our responsibility.

If political wisdom, invention, and understanding keep pace with the ever-increasing demands made upon them by the speed of political and governmental adventure, it will be because the profession finds new

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sources of energy, time, and leisure with which to attack these problems with the weapons of research. This still continues to be the responsibility of the profession. It is a challenge of ever-increasing intensity which we must not and dare not ignore.

The following suggestions and conclusions were drawn from the Chicago research conference by Professor Oliver P. Field:

1. The Committee should make known from time to time the subjects that it deems of social significance upon which an insufficient amount of research is being done and should call these subjects to the attention of the profession.
2. The Committee should use its influence with the national and state governments to establish research divisions in the various administrative departments in national and state government, and to this end should hold a subsequent meeting with this specific subject as the central core of the agenda.
3. The Committee should use its influence to obtain for social science research, and especially political science research, a regular place in university budgets, to the end that such research be not dependent solely on private subventions.
4. The Committee should promote closer working relations between research institutions and service institutions and the academic research groups.
5. The Committee should look upon itself as a general administrative body in carrying out this program rather than as a direct manager of research or as a research body itself. For example, it should encourage and devise methods for making possible the publication of worth-while monographs, but should not itself attempt to act as a publishing agent.—ARNOLD B. HALL.

SUB-COMMITTEE ON POLITICAL EDUCATION

Since our last annual meeting, the Sub-Committee on Political Education has sponsored and financed fifteen conferences for the mutual education of the members of the political science profession, public officials, and politicians. One of these conferences was under the joint auspices of this Sub-Committee and the Sub-Committee on Research.

The sum of $5,500 was appropriated to the Sub-Committee by the Committee on Policy for this year's work, the largest amount the Sub-Committee has had in any one year up to this time, and it has enabled us to hold the largest number of conferences in the same period of time. The Sub-Committee has now held a total of 38 conferences.

This report does not include the work, under Professor Crecraft, for the improvement of the teaching of civics, which he presents separately. The Chairman invited Professor Ben A. Arneson of Ohio Wesleyan University and Professor F. G. Crawford of Syracuse to advise with Professor Crecraft on this branch of the work.

Professor Cullen B. Gosnell of Emory University became the successor to President H. W. Dodds as a member of the Sub-Committee this year,

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and has lent very valuable guidance both in the selection of conference locales and managers in his part of the country, and in the actual planning and direction of those conferences.

The personnel of our Advisory Council remains the same as last year except for the addition of our former chairman, President Dodds, the resignation of Mrs. George Gellhorn, and the death of Dr. Willis J. Abbott. Although we have not been able to meet with our Advisory Council this year, it has been gratifying to receive indications of their continued interest in this project. Special mention should be made of such assistance as Mr. George F. Milton has rendered in serving as the presiding officer of several of our conferences in the South, not only this year, but in preceding years as well.

The Sub-Committee met twice during the year, in February in New York, and again in September in Chicago at the time of the general meeting of the Committee on Policy. The demand for conferences continues, but sometimes it is from localities and institutions which have already been covered, or in which the need was not felt to be so great. Instead of granting conferences only to those places which asked for them, we have adopted the policy this year of selecting localities in which conferences have not previously been held, and then offering a college or a university in the locality the opportunity of holding a conference. This method has been very successful. Our offers have been accepted eagerly.

It is our opinion that the work of this Sub-Committee should be continued, and we hope that the Committee on Policy will appropriate as much for this purpose as its resources for next year will permit. We have continued to allow $400 for each conference, but the average cost of the conferences this year has been $312.18, including all overhead. It will be impossible for me to continue as chairman of the Sub-Committee, since I have received a call from the Ministry of Education at Nanking to go to China, and will be absent from the United States until September.

The following is a brief summary of the conferences held during the year:

(1) Knoxville, Tennessee, April 13-14, on "Reorganization of Local and State Government, with Particular Reference to the Problems of the Tennessee Valley and the Program of the Tennessee Valley Authority." This conference was held under the joint auspices of the Sub-Committee on Political Education and the Sub-Committee on Research and in cooperation with the Southern Political Science Association. Dr. Arnold B. Hall, Professors A. N. Holcombe, Cullen B. Gosnell, E. Baskin Wright, and Frank Prescott coöperated in the arrangements. There were present seven officials of the Tennessee Valley Authority, seventeen professors and researchers, one judge, and four prominent laymen. Cost (this sub-committee's portion), $327.04.

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(2) Bloomington, Indiana, April 26-27, on "Local Government," organized by Professor F. G. Bates of Indiana University. Members included the governor of the state and six other public officials, twelve academic representatives, and seven influential citizens. Cost, $255.58.

(3) Tuscaloosa, Alabama, April 27-28, on "Reorganization of State Government and Administration," in charge of Professor E. Baskin Wright of the University of Alabama. Invitees included eight officials, thirteen academic representatives, and nine civic leaders, including three journalists. Cost, $334.23.

(4) Durham, North Carolina, May 11-12, on "Current Inter-Governmental Problems," under the direction of Professor Robert S. Rankin of Duke University. Those in attendance were six government officials (all national except the county manager), sixteen academic members, including the president of the University, a newspaper editor, and a prominent business man. Cost, $200.00.

(5) Cleveland, Ohio, May 11-12, on "County Government," organized by Professor Earl L. Shoup of Western Reserve University. There were invited thirteen political scientists, thirteen public officials, and seven prominent citizens, including the editors of the three local dailies. Cost, $280.09.

(6) Baltimore, Maryland, May 12-13, on "New Relations Between Government and Business," under the chairmanship of Professor James Hart of the Johns Hopkins University. Eleven academic members, seven federal officials, and five very important laymen were present. Cost, $270.04.

(7) Hanover, New Hampshire, May 18-19, on "Coördination of Law Enforcement Machinery in New Hampshire," under the direction of Professor Harold R. Bruce. There were present fifteen officials including the governor, seven leading citizens, and eight academic members. Cost, $295.23.

(8) Oxford, Ohio, June 14-15, on "Reorganization of Local Government," under the direction of Professor S. Gale Lowrie of the University of Cincinnati. Members included twelve public officials, five civic leaders, and fourteen academic representatives. Cost, $215.82.

(9) Iowa City, Iowa, July 6-7, on "The Brookings Survey of State Government and Administration in Iowa," arranged by Professors Benjamin F. Shambaugh and Kirk H. Porter of the University of Iowa. Twenty officials, twenty academicians, and eight lay members were invited. Cost, $288.07.

(10) Jackson, Mississippi, November 30-December 1, on "State and Local Government," under the direction of Professor David Wilbur Knepper of the Mississippi College for Women. There were present fifteen professors and research men, seven politicians, and six public officials. Cost, $322.77.

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(11) New Orleans, Louisiana, December 3-4, on "Municipal Government and Administration," arranged by Professor H. C. Nixon of Tulane University. Members included twelve teachers of political science, history, and law, eight officials, and eleven laymen, of whom eight were important journalists. Cost, $258.24.

(12) San Francisco, California, December 7-8, on "Current Problems of State Taxation," organized by Professor Edwin A. Cottrell of Stanford University. Ten professors, ten public officials, four secretaries of civic organizations, and nine private citizens, of whom six were former state officers, were invited. Cost (estimated), $265.00.

(13) Evanston, Illinois, December 7-8, on "Chicago-Down-State Relations," under the direction of Professor A. R. Hatton of Northwestern University. The record of attendance has not yet been received. Cost, $168.58.

(14) Columbia, South Carolina, December 14-15, on "State and Local Government in South Carolina," with Professor George R. Sherrill of Clemson College as director. Members were ten teachers, six officials, four civic leaders, and four journalists. Cost, $128.65.

(15) Lawrence, Kansas, December 13-14, on "State and Local Finances," arranged by Professor F. H. Guild of the University of Kansas and this year head of the research department of the Legislative Council of the state of Kansas. The list of attendants has not yet been received, though there were twenty-four present. Cost, $244.05.—A. N. HOLCOMBE.

CITIZENSHIP-TRAINING DIVISION OF THE SUB-COMMITTEE ON POLITICAL EDUCATION

This is the fourth annual report of the Citizenship Training Division of the Sub-Committee on Political Education. At the meeting of the Sub-Committee in New York, February 3, 1934, it was decided to continue during the year the policies of (a) bringing together, in state conferences, political scientists and educational administrators and specialists; and (b) calling attention to the fact that the subject of government is not sufficiently recognized in the social science curriculum, this being true not only in the high schools but also in the normal schools and colleges of education.

Conferences

Six citizenship training conferences have been held during the year. The first was at Columbia, Missouri, April 14, 1934, led by Professor Lloyd M. Short. The total number of persons attending was fifty-one, including seventeen high school teachers, five from high school junior and senior colleges, four member of faculties of the state teachers colleges, eleven members of the faculty of the University of Missouri and one of

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Washington University, and the state superintendent of schools and two other representatives from his office. The major topics of discussion were the content of social studies courses in Missouri high schools, the training of high school teachers of the social studies, and coöperation between high school and college teachers in the social sciences.

A second conference was held at Atlanta, Georgia, on November 2 and 3, in charge of Professor Cullen B. Gosnell. At this conference, thirty-eight were present, including representatives from Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North and South Carolina, and Tennessee. Among the topics discussed were needed changes in provisions for civic training, with special reference to teachers, the present status of teaching in the public schools, trends in civic training in the public schools, and the use of newspapers and periodicals in the teaching of public affairs. Professors Holcombe and King, of the Committee on Policy, also addressed the conference.

The third conference, in charge of Professor Oliver P. Field, was at Minneapolis, on November 16 and 17. Twenty-four high school teachers, five supervisors, one superintendent, seven college teachers throughout the state, and several men from the college of education and the political science department of the University of Minnesota were present, making a total of about sixty persons. The problems chiefly discussed were: (1) how intensively social studies teachers can be trained in any one of the social studies without neglecting the fundamental materials in all of them needed in the typical teaching position; (2) whether methods courses for social studies teachers should be general or separately organized for each discipline in this field; and (3) various means of increasing the availability and usefulness of in-service training.

The fourth conference was held at Cleveland, November 16 and 17, under the joint auspices of the Sub-Committee on Political Education and the Committee on Citizenship Training of the Cleveland Board of Education. Whereas the other citizenship training conferences were organized from a state-wide point of view, this one was a pioneer attempt to bring political scientists into contact with a large city board of education and to concentrate discussion upon its problems. The topic at the first session was the content of the social studies curriculum, with addresses by Professor Frank G. Bates of Indiana and Professor James K. Pollock of Michigan, while the second session was devoted to the training of social studies teachers, with addresses by Professor Robert E. Cushman of Cornell and Professor Elmer C. Gehlke of Western Reserve. Over two hundred teachers of the social studies in the Cleveland schools were present, as well as a number of members of the Cleveland board of education and its committee on citizenship training.

The fifth conference was held at Lexington, Kentucky, on December

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14. This conference, the first to be held in that state, was under the direction of Professor Amry Vandenbosch of the University of Kentucky. It featured addresses by Dr. Richard Jaggers of the state department of education on "The Training and Certification of Social Science Teachers," by Dean A. G. Weidler, Berea College, on "The Educational Background of the Civics Teacher," by Dr. Lee Kirkpatrick, superintendent of schools, Paris, Kentucky, on "The Content of the High School Civics Course," by President Henry Noble Sherwood, Georgetown College, on "High School Civics Texts," and by Professor J. B. Shannon, Transylvania College, on "Should the Civics Teachers Indoctrinate?"

The sixth conference was held on December 14 and 15 at Lake Cazenovia, New York, under the leadership of Professor Finla G. Crawford of Syracuse University. Its purpose was to discuss various methods of attacking the problem of providing a curriculum in the social sciences for grades seven to twelve. Data on attendance at these last two conferences are not yet available as this report is written.

From the agenda of the six conferences it is apparent that the discussions ranged over a wide field. Most of them, however, centered around the following problems:

1. *Content and Curricula.* Is civic education the same thing as political science education, or is it broader? Is it the same thing as social science education? Is it the same thing as history education? Are unit courses including all the social studies except history more satisfactory than half-unit courses in each subject? Do unit courses increase or decrease the amount of time devoted to the study of government? Do the so-called "problems" courses in the social studies tend to slight basic factual data which are essential to the understanding of those problems? Should the study of government in some form be continuous throughout the schooling of the child or be concentrated at certain levels? Can it be taught by skilled teachers at almost any level? Where should emphasis be placed in the teaching of government in high school—upon national, state, or local government? Upon governmental organization or functions? Should it be organized around the study of governmental agencies (the legislature, the courts, the Interstate Commerce Commission, etc.? Should it be merely descriptive and uncritical, or is there a legitimate place for the study of "social goals"?

2. *Proportionate Time Allotment.* Is adequate time allotted to the study of government in public schools? Is the enrollment in these courses in keeping with their importance? To what extent should such courses be required? To what extent should such courses be accepted or required for college entrance?

3. *Training of Teachers.* What are the present requirements of institutions training social studies teachers? Should a college "minor" in social

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studies be permitted? How much college training in government should (or could) be required of high school teachers who give courses in civics or composite social studies courses which include the study of government? What specific courses should this training include? How many colleges and universities offer these courses regularly? Could they be given by other institutions? Have we fully realized the possibilities of late afternoon or Saturday morning classes for teachers living near colleges and universities? Of regional centers for advanced work on the extension-lecture plan? Of summer session courses?

4. *Methods.* What use may be made of extra-class projects in improving the study of government? Are those complex activities such as mock conventions, mock court trials, parliamentary drills, running a city government for a day, and the like worth what their advocates claim for them? What use can be made of newspapers and periodicals in the teaching of public affairs?

Progress Toward Wider Recognition of Political Science in the Curriculum. Obviously, many of these problems involve factual data which we do not have. We have made some progress in carrying on an investigation of the certification of civics teachers. A small appropriation was allotted Professor Carl M. Frasure of West Virginia University to make a careful study of the requirements for such teachers in West Virginia. Such a study should be made in every state.

A letter to the United States Commissioner of Education suggesting that his office might make such a survey elicited a negative reply as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF EDUCATION
Washington

March 8, 1934

Dr. Earl W. Crecraft
University of Akron
Akron, Ohio

DEAR DR. CRECRAFT:

Replying to your letter of February 19:

The Office of Education desires to coöperate with such groups as the American Political Science Association. I am assured, however, by Mr. Frasure, who is now engaged in making a comprehensive study of certification of teachers, that there would be little significance in sending out to state departments of education asking what rules and regulations they follow in licensing teachers of civil government or civics. In general, high school teachers are still certificated on the basis of college graduation or some other general criterion of that sort. In some states, such teachers are limited in the subjects they teach according to certain fields of specialization which they followed in their college curricula. In almost no states, however, do the certification requirements specify that political science, as such, will be required as a major for persons teaching any particular subjects in high school. The most that

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would be discovered by such an inquiry would be how many states require a major in the social sciences for teachers of civics. In such cases it would be entirely possible for students to graduate in a good many colleges with majors in economics or sociology or history without ever touching the field of political science. At any rate, it would be impossible to determine how many teachers had had courses in political science.

In respect to your second question, it is perhaps an improper assumption that teachers colleges offer courses to teachers which essentially duplicate what the teachers are expected to teach in the public schools. I know of few teachers colleges which have courses under the title "Civil Government" or "Civics." Most of the work in the teachers colleges is organized under general college nomenclature. Instruction is organized either in such departments as political science or in such divisions as social science, and prospective high school teachers in preparation for teaching civics would be expected to take courses, not in civics, but in political science and other social sciences. The Office of Education would not be willing to send out to normal schools and teachers colleges requests for information as to what courses are offered in each of these fields, because it is our practice to answer such questions from the college catalogs.

I fear that this letter may seem altogether negative, in spite of the fact that the Office of Education hopes for the closest possible relationship with your Association. It may not have come to your attention that in the National Survey of the Education of Teachers, a detailed questionnaire was filled out by a very large number of college (*sic*) teachers. This questionnaire not only indicated what subjects the teacher had had in college, but what subjects the teacher was teaching in high school. It would seem to me that from these questionnaires already filled out, a study might be made of those teaching civics, if the compilations which are already made for the survey do not supply the information which you need. A copy of the inquiry form that was used is attached.

I hope I may see you and other members of your Association during the meeting of your Committee in Washington in the spring.

Very sincerely yours,
(signed) George F. Zook, *Commissioner*

In particular states, some progress has been made:

In the South. The Atlanta conference established a committee on civic education with Dr. Keener Frazer, University of North Carolina, as chairman, and a member from each state represented at the conference, to work with Dr. Crecraft and the state superintendents.

In Minnesota. During the Minneapolis conference, preliminary steps were taken for the formation of a professional association of the social studies teachers and social science professors of the state, and the essential steps toward organization had been completed before the conference adjourned. "The name of the organization," reports Professor Field, "is the Minnesota Council for the Social Studies, and the likelihood is very real that through this organization college teachers and public school teachers in this field will be able to come together for the discussion of common problems much more easily than has been the case hitherto. . . . The commissioner of education presided at the dinner meeting and delivered a short speech in which he pledged the coöperation of the state

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department of education. He also attended several of the discussion meetings."

In Ohio. The Ohio situation is perhaps unique. Political science is not classified by the state department of education as one of the social sciences. It is classified under history. This means that a teacher may be licensed either to teach the social sciences or to teach history without having any preparation in political science. As a result of this situation, Professor Ben A. Arneson has been asked by the professors of political science in Ohio to consult with the state department. He is urging them to classify political science as one of the social science group and to retain political science, also, as connected with history. He has also sent out inquiries to a large number of city superintendents of schools in the state asking whether political science should be classified by the state department in the social science group as well as in the history division. Of the 105 replies, 86 approved his proposition, 10 were doubtful, 9 were opposed. Most of those who were opposed indicated that their opposition was the result of unfamiliarity with the question.

In New York. "Progress has been made in New York State in two directions," reports Professor Crawford. "(1) Under the revised regulations issued by the State Education Department, all secondary school teachers will be certificated for a subject or a group of subjects, determined by the collegiate preparation of a candidate.[1] Social studies are included as a subject and thirty semester hours' credit are required for this certification. No decision has been made as to the division within these thirty hours, but it is anticipated that political science will constitute a fair proportion of these thirty hours.

"(2) A social studies course for one year will be required for all high school diplomas in the state. This is a distinct gain for our field, because before this change civics for one semester was the only requirement. The State Department of Education is planning a revision of the social science courses from the seventh year to the twelfth. A syllabus committee has been appointed, composed of representative teachers in the public schools of the state; an advisory committee composed largely of college teachers will work with this syllabus committee. Political science is represented on this advisory committee. This is the first time that political science has had any representation in the making up of a syllabus for the secondary schools of the state. At the conference in Cazenovia on December 14 and 15, a selected group from the syllabus committee and all the members of the advisory committee will be present. The main business of the conference will be to discuss the points of view and method of attack which will be used in devising this course of study."—Earl W. Crecraft.

[1] This was the subject of the New York conference last year.

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SUB-COMMITTEE ON PUBLICATIONS

The Sub-Committee on Publications held a meeting on April 21 in Columbus, Ohio, and also met with the Committee on Policy in Chicago September 16–18. The Sub-Committee has considered particularly the following matters: (1) the *American Political Science Review;* (2) the American Council of Learned Societies' fund for aid in the publication of books in the humanities; (3) proposal for aid in the publication of manuscripts by members of the Association, from funds under control of the Committee on Policy.

1. *The Review.* At its April meeting, the Sub-Committee (with the aid of President Shepard and the Managing Editor, Professor Ogg, who were in attendance by invitation) considered in detail the content and form of the REVIEW. In the June issue of the REVIEW, comments were invited from members of the Association. Perhaps the most important finding of the Sub-Committee relates to the burdensomeness of the work borne by the Managing Editor, who handles almost alone the reading and evaluation of manuscripts, the securing of books for review and the selection of reviewers, the correction of copy and proof, etc. Professor Ogg reports that he devotes about half of his total working hours to tasks directly connected with the REVIEW. The Committee on Policy at its September meeting adopted a proposal to the effect that if funds at the disposal of the Committee should be available, the Council of the Association be asked to consider the advisability of creating the post of assistant to the Managing Editor, who would be expected to serve on something like a half-time basis and receive a salary of about $2,500 a year.

The Sub-Committee has heard some criticisms concerning the quality of the leading articles and the apportionment of space between general interpretive articles on the one hand and descriptive articles and digests on the other hand. It recommends that the Board of Editors be asked to consider (a) whether it is desirable and practicable to obtain a larger number of high-grade articles of a general interpretative and polemical character, (b) whether additional space for articles of such character might not be secured by excluding the summaries of governors' messages and shortening the summaries of statutes, etc. Other minor suggestions have been reported directly to the Managing Editor.

The members of the Sub-Committee, in expressing their hope that Professor Ogg will continue to serve as Managing Editor as long as he is willing to do so, are only reflecting what appears clearly to be a very decided opinion of the membership of the Association.

2. *American Council of Learned Societies Fund for Assistance to Publication.* The American Council of Learned Societies has recently announced that it is prepared to extend assistance (out of a grant of $20,000 from the Carnegie Fund) to the publication of a limited number of works in the

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humanities by American scholars. The tentative plans of the Council were discussed briefly at the September meeting of the Committee on Policy, and it was the sense of the meeting that the Sub-Committee on Publications should receive and pass on manuscripts submitted through the American Political Science Association this year. Definite announcement from the American Council of Learned Societies that it was ready to receive proposals from its constituent societies was not made until early in November. The announcement stated that the proposals should be received in the executive offices of the Council not later than January 5, 1935. Consequently, the Sub-Committee has had no opportunity for bringing the matter to the attention of members of the Association, except by the announcement in the December number of the REVIEW. The Sub-Committee has received two manuscripts and expects to submit at least one of them with its favorable recommendation to the December meeting of the Association. The Sub-Committee recommends that the Council take action to provide for the regular handling of such applications.

3. *Proposal for Aid to Publication from Funds of the Committee on Policy.* The Sub-Committee proposed to the Committee on Policy that if its grant should be renewed in sufficient amount, a sum of $1,200 be set aside each year for assistance to the publication of manuscripts submitted by members of the Association. Its proposal was approved by the Council at its September meeting.

The Sub-Committee approved the request of the Southern Political Science Association of an advance of $75 to enable the Association to publish the *Proceedings* of its 1934 meeting. The advance has been made, as in 1933, on the understanding that receipts from sales of the *Proceedings* are to be returned to the Committee on Policy. Of the sum of $100 advanced to the Association last year, a return of $39.75 was made from the sale of *Proceedings*.—FRANCIS W. COKER.

Balance Sheet as of December 15, 1934

Balance in check-book as reported by Secretary-Treasurer, December 15, 1933	$ 5,155.13
Cash revolving funds	400.00
Deposits made in 1934, credited to 1933 balances	168.51
	$ 5,723.64
Minus bills incurred in 1933, paid in 1934	1,069.28
Final balance, 1933	$ 4,654.36
Receipts	
Carnegie Corporation grant for 1934	15,000.00
Total receipts	$19,654.36

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Disbursements		
Office	$4,092.30	
Travel	8,958.14	
Total disbursements		13,050.44
Balance, December 15, 1934		$ 6,603.92[a]

[a] Includes $1,200 reserve for publication of *Students' Guide.*

Appropriation Statement as of December 15, 1934

	Appropriation	*Net disbursements*		*Balance*
General Committee Fund	$2,304.36[a]	Office	$ 78.89	
		Travel	1,453.29	
			$1,532.18	$ 772.18
General Chairman	1,500.00	Office	$ 602.93	
		Travel	174.55	
			$ 777.48	722.52
Research	4,700.00[b]	Office	$1,370.09	
		Travel	1,195.14	
			$2,565.23	2,134.77[b]
Political Education				
General	5,500.00	Office	$ 665.89	
		Travel	4,329.11	
			$4,995.00	505.00
Civics Study	2,250.00	Office	$ 178.26	
		Travel	1,318.70	
			$1,496.96	753.04
Publications	1,100.00	Office	$ 635.25	
		Travel	127.30	
			$ 762.55	337.45
Personnel	2,300.00	Office	$ 560.99	
		Travel	360.05	
			$ 921.04	1,378.96
Aggregate balance				$6,603.92[b]

[a] Unappropriated balance.

[b] Includes $1,200 reserve for publication of *Students' Guide.*

Budget for 1935

Available for Appropriation		
Balance from 1934		$ 5,400.00
Grant for 1935		7,500.00
Total		$12,900.00
Appropriations		
Sub-Committee on Research	$1,500.00	
Sub-Committee on Political Education	4,500.00	
Sub-Committee on Personnel	1,200.00	
Sub-Committee on Publications	800.00	
Sub-Committee on Materials for Instruction	2,400.00	
General Chairman	500.00	
Total		$10,900.00
Balance, General Committee Fund		2,000.00

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The Challenge to Liberty. By Herbert Hoover. (New York: Charles Scribner's Sons. 1934. Pp. 212.)

This volume is a continuation of Mr. Hoover's earlier book on *American Individualism*, published in 1922, revised and reorganized in the light of the developments of the last decade both in the United States and in European countries. While the volume is in part an analysis of the American situation, it is also directed at wider developments throughout Western Europe.

Mr. Hoover repudiates adherence to the doctrine of *laissez faire*, which "may thrive as an economic or social philosophy in some countries today, but it has been dead in America for generations" (p. 51). "There may be," he continues, "some reactionary souls who still yearn for *laissez faire*," but in general this may be regarded "as a dishonest polemic, as a straw man, set up to be knocked down." He does not, however, repudiate "rugged individualism" (p. 54), which he still upholds, meaning by this term apparently "the development of the special qualities of individuals, their personality and character." At this point he might seem to be using the word "individualism" as synonymous with what Dewey calls "individuality," aside from economic connotations.

Elsewhere he defines the liberty which he discusses as consisting essentially of "justice, self-restraint, obligation to fellow-men. Its practice is a sensitive adjustment of conflicting rights and interests through a spirit of decency and coöperation in human relations, reinforced by governmental restraints, to the end that men may enjoy equal opportunities" (p. 35). This is contrasted with a system of "planning or regimentation" to which reference will be made later.

Between "regimentation" and *laissez faire* Mr. Hoover sets up types of behavior which from time to time he characterizes as "economic domination." This includes a variety of actions which, while not legally dishonest, result in destructive action, in oppressing labor or the public. It includes, further, "financial manipulation of business agencies; vicious speculation in their capital stocks; exploitation of the investor; and improper interference by business in government" (p. 155). These evils may be corrected in part by governmental action, in part by "economic organization and legal administration," and partly by the Sermon on the Mount (p. 154). Mr. Hoover is vehement in his denunciation of the heartbreaking betrayals of trust by "cultivated gangsters in big business." It is his firm conviction that economic oppression, economic domination, economic tyrannies, may and must be regulated and controlled by government and society.

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With special emphasis, Mr. Hoover dwells upon betrayals of trust in the financial system as distinguished from the production and distribution system. "The increasing growth of domination by financial agencies over industrial and distribution agencies has led to abuses by exploitation and vicious speculation which are in no sense the fault of the industries themselves" (p. 163). In set terms, Mr. Hoover denounces the failure of the "financial and credit set-up" to "lubricate rather than direct" production and distribution.

Furthermore, Mr. Hoover declares against over-concentration of wealth. "Nothing is more certain," he says, "than that we require a constantly wider diffusion of income" (p. 182). This, he maintains, has been the basis of the American system from the beginning, and should be followed through.

At one stage of his discussion, Mr. Hoover points out that we have been engaged in planning since the days of George Washington, and sums up many examples of our national plans in significant paragraphs (pp. 109–110). Indeed one of the chief conclusions of President Hoover's Committee on Recent Social Trends was the necessity for more effective social integration through sounder and farther-seeing planning. In his later pages, however, Mr. Hoover identifies "regimentation" and "planning" and couples these terms throughout his remaining argument.

Mr. Hoover finds that the greatest dangers in what he calls "planning or regimentation" are the decline of the representative body, the undue and dangerous reliance upon bureaucracy, and finally the loss of economic and political liberty. Even emergency measures must be watched closely and checked, lest they crystallize into permanent lines and forms of national policy. Types of such dangerous measures he selects from the emergency legislation of 1933–34, in which he finds the beginnings of the loss of both political liberty and of economic liberty (pp. 77–78). These measures he classifies under five main heads: regimented industry and commerce, regimented agriculture, government in competitive business, managed currency and credit, and managed foreign trade. These involve "a vast shift from the American conception of human rights which even the government may not infringe to those social philosophies where men are wholly subjective to the state. It is a vast casualty to liberty if it shall be continued" (p. 103).

The transition from the approving recital of American progress by means of planning to the vigorous denunciation of "national planning or regimentation" is unquestionably the most obscure point in Mr. Hoover's discussion of national problems. Just where the line is to be drawn, showing where "planning" ends and "regimentation" begins, he leaves by no means clear. Mr. Hoover does not consider the question of whether there may be planning for liberty as well as for control, whether

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planning may not release as well as confine human energies, whether the very series of attempts to regulate monopoly and economic domination which he himself approves may not legitimately be classified as planning.

Nor can it be forgotten that regimentation may be found, and indeed often has been found, outside of the government and in the field of private enterprise; and that the government has been obliged again and again to intervene for the protection of its citizens against oppression and domination of the most odious type. Mr. Hoover himself has cited notable instances of the behavior of "cultivated gangsters in big business," whose conduct the government has found it necessary to rebuke and restrain.

The truth is that our American choice is not one between planning on the one side or no planning on the other, but between planning in advance and planning after the event—between deliberate and mature planning based on careful analysis of available data and hasty and inevitably defective planning which is always open to just criticism. A national planning agency might go a long way toward avoiding many of the tragic wastes in our American life and seriously attempt constructive efforts for the reorganization and best use of our national resources, both physical and human. Planning agencies—rural, urban, state—are developing rapidly, and many types of planning in the federal government as well.

A group of planners would have time for reflection upon national trends, problems, and possibilities, and might well contribute to those in authority facts and suggestions of very great importance in our public life. Final decisions would, of course, be made by those vested with political responsibility—with the President and the Congress in the national field.

This interesting volume of President Hoover is worthy of much more careful reading than it is commonly receiving, if one may judge from most reviews of it. Unfortunately, the friends of the author are reading only what they want and his foes select only those passages best suited to their immediate needs. Between the lines, however, there is much food for thought and little comfort for irreconcilable disciples either of Mill or of Marx. I may even venture to suggest that Mr. Hoover himself might well ponder further his bracketing of "planning and regimentation." Obviously he is not opposed to city planning, or to state planning, or to the long series of American types of planning which he himself enumerates and in which he has indeed participated. The process by which he identifies planning and regimentation is not clear, even to disinterested friends of the former president endeavoring to apprehend his meaning, and on mature analysis will be found difficult to defend.

CHARLES E. MERRIAM.

University of Chicago.

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Beyond the New Deal. By David Lawrence. (New York: McGraw-Hill Book Company. 1934. Pp. 321.)

In this work, David Lawrence tries to be very kind to Mr. Roosevelt, to maintain a balanced judgment of the New Deal, to avoid the extreme emotionalism which covers the pages of the great Tribunes, and even to say some kind things about that imperfectly identified although undeniably scapegoatish fellowship known as the Brain Trust. What the book needs, however, is an extra chapter in which Mr. Lawrence can just let himself go, observing only those finer niceties of restraint which convention and the moral code impose.

He views with concern the purposes and the amounts of national expenditures. Even in a restored prosperity, he cannot see where the money to pay the debt is coming from. His remedy is a balanced budget regardless of pain, pressure, or politics. He does not like the restrictions placed upon business, nor the circumvention of the Constitution involved in new legislation, nor the evidences of what he calls "state-ism," nor the prevailing prejudice against the rich and the profit motive. He agrees that there were many evils in the rugged individualism of 1929 which he would correct with a "responsible individualism" of wise government regulation as opposed to government control characterized by meddlesome political interference.

Mr. Lawrence, however, makes the very common mistake of assuming that the government is an isolated group of politicians motivated by spoils and other undefined purposes in hampering the honest endeavors of business. So we find that government gave us the boom market, that government gave us ruinous competition in industry by passing the anti-trust laws, that government gave us the present Securities Law, which, according to Mr. Lawrence, has made practically impossible the flotation of loans for the revival of our great industries, and so on through a long catalogue of misdeeds. It does not seem to occur to Mr. Lawrence that when this government and other governments were wrecking world trade by raising tariff barriers—a thing which he deplores—they were acting quite frequently in behalf of industrial leaders, or that when the government at Washington did nothing to arrest the wild speculation of 1928 and 1929, it was acting purely as the representative institution of those business leaders who feared the destruction of popular confidence in the wizards and wizardry of finance. Normally, both for good and ill, the national government has been most obedient to the wishes of organized business. Let the Harding, Coolidge, and Hoover administrations stand as everlasting proof of this. Mr. Lawrence contributes to the theory of government some interesting speculations on the value of a cabinet detached from the details of constant management of governmental departments and meeting daily with the President, of a Congress subject

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to recall, and of the possible uses of a national referendum. There is merit in his suggestions. But a congressman subject to recall would still be something less than a legislator.

JEROME G. KERWIN.

University of Chicago.

James G. Blaine; A Political Idol of Other Days. BY DAVID SAVILLE MUZZEY. (New York: Dodd, Mead and Company. 1934. Pp. ix, 514.)

This book, by all odds the most critical and best biography of James G. Blaine which has been written, is another volume in the series of "American Political Leaders." Professor Muzzey discusses in detail the many controverted points of Blaine's paradoxical career, and concludes with a ten-page summary (pp. 491–499) which balances praise and censure with scholarly detachment.

An interesting picture of Blaine's early life is given, with the purpose of showing how inherited traits and education helped to shape a character which was to appeal so strongly to the masses of the American people. Blaine's acceptance of the editorship of the *Kennebec Journal* was one of the most important decisions in his life "in its effects on his public career" (p. 23). Henceforth he was "Blaine of Maine."

From June, 1856, when Blaine went to Philadelphia as a delegate to the first national nominating convention of the Republican party, until his death in 1893, his loyalty to the party of his choice never wavered. It is Professor Muzzey's thesis that the true key to Blaine's strength and weakness "is in the simple phrase *party devotion*" (p. 496). To Blaine, the Republican party could do no wrong. His identification "of Republicanism and Americanism won for him that devoted popular following which the unfaltering and unqualified advocacy of a political faith by a persuasive leader always wins" (p. 497).

Limitation of space permits of touching only the high-lights of Blaine's career. When he was elected Speaker of the House of Representatives in 1868, he entered on what was probably the happiest years of his life (p. 63). Never again was he "to enjoy so great a measure of esteem in the eyes of his countrymen, regardless of section, party, or creed, as when he arose on the fourth of March, 1875, to deliver his brief valedictory address as Speaker of the House" (p. 72). He has been ranked as one of the greatest Speakers.

With respect to Blaine's candidacy for the presidency, Professor Muzzey disagrees with Blaine's critics who attributed his expressions of indifference to political hypocrisy. Blaine was a man of mercurial temper. "It was not hypocrisy, but a congenital disposition to discount the fears of personal discomfiture too heavily, as well as to be unduly elated over the prospects of success, that best explains Blaine's political variable-

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ness" (p. 225). The convention of 1876 found Blaine desirous of the presidential nomination, the only time, in Professor Muzzey's opinion, that he really desired it (p. 108). His failure to win it "was as significant an incident in his career as his failure to win the hotly contested election in 1884" (p. 114).

Next to his failure to win the presidential nomination in 1876, Blaine's greatest political disappointment "was the sudden interruption of his activities in the State Department in 1881" (p. 228). Garfield's tragic death brought to an abrupt close Blaine's foreign program, which with the cordial support of Garfield "would have anticipated in many features the work of Roosevelt, Root, and Hay twenty years later" (p. 194). Professor Muzzey denies that Blaine's second administration of the State Department (1889–92) was "jingoistic." It was on his Latin-American policy, his attempt to draw the republics of Latin America more closely to the United States, politically and commercially, that his first claim to remembrance rests (p. 494).

In the bibliography at the end of the book there are two surprising omissions: James B. Lockey's *James G. Blaine*, in Volumes VII and VIII of *The American Secretaries of State and Their Diplomacy* (1928); and Brainerd Dyer's *The Public Career of William B. Evarts* (1933).

EVERETT S. BROWN.

University of Michigan.

The Presidential Vote, 1896–1932. By EDGAR E. ROBINSON. (Stanford University, California: Stanford University Press. 1934. Pp. ix, 403.)

The basis of this book is a statistical table covering nearly 240 of its large pages, which presents the vote—Republican, Democratic, and the total for other parties—of each county in the United States for each presidential election from 1896 to 1932 inclusive. All of the figures entering into it were gathered and carefully collated from the best official sources. In addition, other relevant tables analyze the returns by counties and also by states and sections of the country. A magnificent series of ten plates shows the Democratic counties of the United States in black, the Republican counties in white, for each of the presidential elections referred to above. Prefacing the tables is an admirable statistical summary dealing separately with these elections, but drawing numerous comparisons between them.

To one who has lived through the ten campaigns from 1896 to 1932, campaigns replete not only with "paramount" and subsidiary issues but also with innumerable irrationalities, irrelevancies, and personalities, Professor Robinson's analysis may seem cold, hard, and precise. Nevertheless there is no quarrelling with it; in it he has presented the essential

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facts and figures, with comment that is brief, adequate, and unimpeachable.

Many interesting and significant details, hitherto unknown, have been dug out by the author. For example, relatively few counties—to be precise, 619 Democratic and 83 Republican—have maintained a one-party lead throughout the whole period of thirty-six years under discussion. Since the total number of counties in the country is 3,096, this means that, first and last, the extent of the party battle-field is much greater than most commentators have indicated. Incidentally, Professor Robinson's figures afford little support to those persons who, since the mid-term election of November 6, 1934, have been predicting the death of the Republican party.

Professor Robinson's work is the first analysis of our major elections which can be compared with such Continental studies as Giovanili's *Statistik der Nationalratswahlen, 1919–1928*. The latter, by the way, was undertaken and published with the support of the Swiss government. Similarly, *The Presidential Vote, 1896–1932* would do credit to any census office in the world. All the more honor, therefore, to Stanford University and to the Stanford University Press for executing so colossal and so technically perfect a work. Thanks to it, political scientists and historians are now emancipated, so far as the period 1896 to 1932 is concerned, from dependence upon messy newspaper compilations. It is to be hoped that Professor Robinson will issue supplements every four years, thus keeping his invaluable work constantly down to date.

ROBERT C. BROOKS.

Swarthmore College.

English Local Government. BY HERMAN FINER. (New York: Columbia University Press. 1934. Pp. xiii, 533.)

This robust volume is a welcome addition to other recent descriptions of local institutions of government in England, such as the volumes by W. A. Robson, John P. R. Maud, and Sir Ernest Simon. Although the ground traversed is familiar, no other volume in the field has presented such a wealth of data or given so completely the framework of ideas, prejudices, and traditions within which English local government operates. The American reader will be constantly reminded of the similarity of fundamental problems encountered on both sides of the Atlantic, as well as of certain familiar structural differences in the organisms through which solutions to these problems are sought.

The grand divisions of the work are five: nature and problems; areas and functions; constitution, powers, and organization; the central-local relationship; the finance of local government. Special interest attaches to the critical and constructive discussion of areas, to the study of the

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inspectional mechanism maintained by Whitehall, which presents some quite new material, and to the long-standing problem of centralization.

American students of local government in England have been aware of a slowly rising tide of uncertainty in informed circles concerning the basic soundness of the highly disintegrated form of local administration, operating through a number of large council committees under the very vague and ill-defined leadership of the town clerk or the finance committee. By way of contrast, Professor Finer gives a discreet account of the highly integrated American council-manager plan (pp. 235–240), leaving his reader to decide what elements of the system are applicable to English problems. But eventually Professor Finer gives himself away, although with limitations, in his observation: "In the largest authorities, separate room could be found for a legal adviser and a city administrator." For England, these are bold words.

The treatment of the relations between Whitehall and the various agencies of local government reveals Dr. Finer as a friend of the central power. The audit of local accounts, which proceeds on a more rigorous basis in England certainly than in most of the American states, is held on final analysis to be "not oppressive to the local authorities." It provides "beneficial guarantees to the whole country, and to the minority in each community. . . ." The "principle of inspectability," generally regarded as the characteristic English bond between the central and local authorities, is given generous endorsement, and the pages dealing with inspection (pp. 324–368) are extraordinarily valuable to American readers.

Another section of the work which will interest readers in this country is the discussion of the relative merits of the *ad hoc* authority, with its individual area of jurisdiction, as against the regional authority endowed with a compendium of powers. Here the author parts company with his colleague, Dr. Robson, advocating the regional solution. The discussion is illuminating.

With this substantial volume to guide us through the structure, finance, and central supervision of counties and boroughs, we may now look forward with keen anticipation to the lifting of the veil from the inner workings of the English system. Apart from Sir Ernest Simon, no one has revealed the inner balance of forces which governs the direction in which English cities move. Nor have the organized groups which symbolize these forces been described, nor have the administrative mechanisms themselves been translated into the essential terms of their manipulation by administrators and the administered. How does so eminent an official as Dr. R. H. R. Tee, town clerk of Hackney, ride the forces of his municipal authority and of its constituency? What skills are his, what insights, what philosophy, what "science" of administration which his fellow clerks should have and use?

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Dr. Finer's able volume does not seek to traverse this ground, and we do not complain that he has left this for later study or for other hands. But from the institution which owes so much to the brilliant insight of Graham Wallas, we may justly hope that we shall in due course have a more intimate view of English local government—of the institutions in their intimate essence, where, after all, their real meaning and our deepest understanding may most securely be caught.

LEONARD D. WHITE.

U. S. Civil Service Commission.

Die Entstehung des Staates. BY REINHOLD HORNEFFER. *Beiträge zum Oeffentlichen Recht der Gegenwart*, No. 4. (Tübingen: J. C. B. Mohr. 1933. Pp. v, 255.)

The "Contributions to Contemporary Public Law," initiated by Dr. Paul Siebeck of the J. C. B. Mohr publishing house in 1931, is a loosely integrated series of separate monographs. None of the first three volumes was confined solely to legal problems. Instead, all three, although each from a different point of view, gravely proceeded to check up on the failing health of Weimar democracy. Scholarly and thorough, they rank among the most significant studies of the dynamics of the Weimar constitution in its culminating phase. I have reviewed them in some detail elsewhere (*Zeitschrift für die Gesamte Staatswissenschaft*, Vol. 92, pp. 253–262, and *Archiv des Oeffentlichen Rechts*, Vol. 23, pp. 369–377). The present treatise is well on a par with them.

The aim of the author, *Privatdozent* at the University of Berlin, is to develop a "general theory" (p. 3) by which the emergence of new states within the present-day international order can be explained in rational terms; he conceives this question as "juristic" in character (p. 2). Consequently, he is not concerned with the prehistoric rise of the state, or straight sociology. Modern legal theory is inclined to view the origin of the state on the basis of international law. Thus, according to Kelsen, "un état est formé lorsqu'un ordre de contrainte relativement souverain, c'est-à-dire dépendant exclusivement du droit des gens, se crée et devient efficace sur un territoire donné et vis-à-vis d'une population donnée." But under what conditions can we speak of the efficaciousness of the new order? Obviously, international law does not provide the criteria which enable us to differentiate between non-state, *nasciturus*, and new state. These criteria originate in the realm of political theory (*Staatstheorie*). Hence the "logical priority" (p. 10) of political theory does not necessarily depend on a recognition of the axiomatic dualism of national and international law, as Kelsen's own formulation, supposedly in harmony with the alleged primacy of international law, demonstrates. Unfortunately,

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however, political theory is today no longer able to recline on a "secure philosophical foundation" (p. 15). Ever since Schopenhauer "destroyed" the metaphysics of reason, philosophy has labored to attain "the synthesis of will and idea" (p. 80).

Unlike most others, the author faces this dilemma with unreserved intellectual honesty. He admits that empirical approach and dogmatic approach cannot be pursued at the same time, for man is incapable of "cyclical" or bi-dimensional thinking (p. 18). His solution is "aprioristic pre-view," supplemented by rigid verification (p. 19). Thus methodologically well equipped, he lays bare the inconsistencies of traditional legalistic inquiry into the origin of the state (Laband, G. Jellinek, Stammler, Kelsen, Sander, Schreier). Winding up his critical analysis, he observes that law "is a complex synthetical subject-matter which contains, apart from the logical element, two alogical elements, one ethical, the other empirical" (p. 81). Ontologically, the fundamental problem of the state is the problem of its unity (p. 86). But what is the substance of social unity—the "contents of psychic acts, the psychic acts themselves, or the men who realize these psychic acts"? The author, with both feet on the ground, concludes that the "state is composed of a multitude of men whose behavior is directed toward uniform aims through normative legalization" (p. 104). Within this pattern of continuous mutual motivation (p. 120) Horneffer typifies the emanation of a new state as follows: The "personal leader" conceives the idea (p. 125) of emancipation and transforms it into reality by influencing the behavior of the multitude through a coherent system of imperatives. As the next step, the system of singular imperatives is superseded by a system of general norms through the lasting existence of representative organs. Finally, if the activated community tends toward a definite arrangement which implies a constitution, it is a state in its embryonic stage. The *nasciturus* matures into a sovereign (independent) organism by the incessant factual consolidation of its "objective, personal, and functional values" (p. 141). The author subsequently verifies the results of his "aprioristic pre-view" in a reconsideration of the historical development of political unity in the North-German *Bund*, Belgium, Switzerland, the United States, Italy, Yugoslavia, Czechoslovakia, Poland, and the Free State of Danzig.

The strength of the volume lies in the illuminating and stimulating way in which Horneffer presents his thesis. Its cardinal merit is the attempt to reënforce, in a synthesis between Hegel and Schopenhauer (p. 255), the ethical-philosophical foundation of political science. Divorced from such foundation, political science is threatened by the danger of technological degeneration.

FRITZ MORSTEIN MARX.

Princeton University.

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Jahrbuch für Kommunalwissenschaft. EDITED BY KURT JESERICH. Vol. I, Part 1. (Stuttgart and Berlin: W. Kohlhammer. 1934. Pp. 313.)

Germany's National Revolution, truly "totalitarian," displaced quite a few men of science, elevated others. It retired Professor W. Norden, director of the well-known Institute of Municipal Research at the University of Berlin, raised his assistant, Dr. K. Jeserich, to the top rank, and, in addition, made him executive president of the *Deutscher Gemeindetag*, recently founded exclusive "roof organization" of German local authorities. Under Jeserich's editorship, the new "Yearbook of Communal Science" is obviously striding toward leadership in its field. It represents an unusually instructive cross-section through contemporary local government.

The volume is introduced by a systematic study of "communal science" (pp. 1–46) from the pen of the editor himself, which is particularly worth reading. Oberbürgermeister Karl Fiehler briefly sketches the structure and functions of the *Deutscher Gemeindetag* (pp. 47–57), which I have outlined in the *National Municipal Review* (Vol. 23, pp. 255 ff.). The official doctrine of the corporative state is set forth authoritatively (pp. 58–66) by cabinet member Gottfried Feder, now temporarily retired, who does not mince words in proclaiming: "The National Socialist Revolution would stop half-way unless it reorganized the economic order from the bottom." Dr. Karl Goerdeler, Leipzig's resourceful expert mayor, accentuates his forcible plea for financial reconstruction of German local government (pp. 67–89) by pointing to the necessity of business recovery "from within." How Fascist Italy has dealt with corresponding problems is explained by Professor Benvenuto Griziotti (pp. 90–118). England's struggle against unemployment is illustrated by the example of the city of Birmingham (pp. 119–128), by L. W. Faulkner, manager of the city's Information Bureau. The rest of the volume is taken up with subject-matter such as the future tasks of Germany's public savings banks (pp. 129–201), statistics (pp. 202–227), a survey of current trends in German local government (pp. 228–297), and book reviews (pp. 298–313). The forthcoming second part will analyze parallel developments in the United States, England, France, Belgium, Holland, and the Scandinavian countries; and these accounts are to be kept up-to-date in subsequent volumes.

To those who have been wondering whether German local government might fall prey to the centralizing tendencies of the Third Reich, the very appearance of the "Yearbook," and the ambitious program to which the editor has committed himself, will be of special significance. In fact, Jeserich explicitly states that National Socialism is not inclined to support the Fascist dogma that the state is the focusing point of community life (p. 8, note 18). The state is merely the instrument of pro-

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moting German *Volkstum* (p. 11). And although local government has a "claim to existence" only if it can be justified within the "social and political theory" of *the* movement (p. 3), the author leaves no doubt that "neighborhood" and local organization have, in the course of German history, grown into an "organic part" of German *Volkstum* (p. 11). These prefatory deliberations may seem somewhat outlandish to American readers; but whoever crosses the threshold will be rewarded by the wealth of reliable information and the clarity and objectivity of the presentation.

FRITZ MORSTEIN MARX.

Princeton University.

American Consultation in World Affairs for the Preservation of Peace. BY RUSSELL M. COOPER. (New York: The Macmillan Company. 1934. Pp. xiv, 406.)

By this time it is probably dimly understood by the general public, here at home as well as abroad, that the maintenance of world peace requires some kind of collaboration on the part of a nation so powerful as the United States. Students of international affairs and statesmen not blinded by anti-Wilsonian prejudice have, in fact, understood this during the whole of the painful post-war period. Since it has, however, been assumed to be politically impossible for the United States to join the League of Nations, it has become necessary, during these years, to work out formulas, procedures, and techniques by which the United States could somehow join with the League without seeming to join the League. These devices have in the past been many, from the "official observers acting in an unofficial capacity" of Secretary Hughes to the "independent coöperation" of Secretary Stimson. The latest is "consultation," officially brought to the fore by President Roosevelt's dramatic message to the world and by Norman Davis's statement to the Disarmament Conference, both in May of last year.

Mr. Cooper's book is therefore most timely. It is also an excellent book, thorough and readable. Two chapters are devoted to a discussion of the problem of organizing peace, with special reference to the contribution and implications of the Kellogg Pact in respect to that problem; four chapters deal in detail with the application of the principle of consultation to as many particular disputes, viz., the Manchurian dispute of 1929 between China and Russia, the larger Manchurian dispute between China and Japan, and the two South American disputes over the Chaco and Leticia; a final chapter gives an excellent summary of the development of consultation by the United States and some suggestion as to the implication of such consultation upon future American policy. There is also a good bibliography; an appendix containing the texts of the Kellogg Pact,

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the Nine-Power Treaty, and the pertinent articles of the Covenant; and an adequate index.

Consultation is defined as "any form of communication between governments, whether formal or informal, whether through ordinary diplomatic channels or through elaborate conferences." Applying this broad conception to the preservation of peace, the author traces the development of the principle from the first obligation of that sort assumed by the United States in the Washington Conference treaties of 1922 to the more recent events, and finds the United States fully committed to the principle as well as the practice of consultation; it is the method or technique by which such consultation is to be accomplished about which there is as yet apparently no settled conviction, and which is therefore still in process of development.

The various methods that have been, or might be, tried are analyzed carefully, with attention to the advantages and disadvantages of each. The author thus deals with consultation outside the League of Nations through ordinary diplomatic channels or through special conferences or commissions. He deals similarly, and at greater length, with the various techniques of consultation or collaboration with the League of Nations, through informal contacts, formal notes, or through direct representation in League organs. His analysis leads him to conclude that the consultation should be with the League rather than with individual nations or with any other body, and he seems to favor the technique of direct representation, although he is fully aware that the closest consultation has often actually been through informal conversations and that direct representation raises difficult problems, political for the United States, constitutional for the League. As any close student of American relationships with the League must know, those problems are not, however, impossible of solution, and indeed seem to be in process of solution. Mr. Cooper's book is another very useful contribution to the study of those relationships which constitute, in the reviewer's opinion, the crux of the problem of world peace.

CLARENCE A. BERDAHL.

University of Illinois.

Bolshevism, Fascism, and Liberal-Democratic States. By MAURICE PARMELEE. (New York: John Wiley and Sons, Inc. 1934. Pp. xii, 419.)

The latest of the writings of a prolific publicist, this multi-partite work is an attempt at analysis and synthesis of the values attaching to these three forms of states in comparison with one another. As such, it is one of the earliest endeavors to bring antithetical régimes within a single focus. After a stimulating and provocative chapter posing the problem, the author devotes a dozen chapters to Soviet Russia (pp. 11–181),

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whereas Italy is exhausted in six (pp. 185–290), Nazi-dom in four (pp. 293–355), and the declining fortunes of the liberal-democratic commonwealths are disposed of in five more (pp. 359–419).

The author has given a sketchy presentation of the Soviet government, which, from a political science standpoint, leaves much to be desired. However, there are excellent snapshots here and there—as of the Cheka and the GPU (pp. 21–24), and of Soviet bureaucracy at work (pp. 156–167), which show genuine insight into the actual workings of the Soviet régime. Restraint is, unfortunately, lacking in most of the treatment of Russia, the author showing a marked bias for theoretical Communism and a tendency to idealize the Soviet régime, explain away many of its obvious acerbities, and impute to it "democratic" tendencies which are, in actual practice, largely, if not wholly, mythical.

The author writes chiefly as an economist and socialist, with chapters on religion, ethics, sex, morals, and education, seeing these through rather roseate spectacles. The accuracy of much of his analysis is minimized by the endeavor to read into reality the expectancies which the author seems to feel the future has in store for Russia. In dealing with the economic aspects of Bolshevism, Parmelee is much less romantic, and, though accepting Soviet figures uncritically, is realistic enough to admit the inefficiency of production, inferiority of quality of output, etc. With Litvinov at Geneva counselling moderation as this is written, the statement that "whatever may happen, Soviet Russia stands ready to draw the sword at the propitious moment . . . to fight for the world-wide dictatorship of the proletariat and the eventual advent of Communism" seems a bit far-fetched.

The treatment of Fascism, while on the whole balanced and objective, and derived from authentic sources, contributes little that is new other than to bring into better perspective the connection of Italian industrialists with the régime and the failure of the working classes to share in the asserted benefits of Fascist rule.

The chapters dealing with Germany, although bringing into clear relief the retrograde character of the policies of culturally atavistic nationalism, on the whole breathe great moderation, and while far from extolling the Nazis, indicate objectively in how far the régime has really stabilized itself and the extent to which the more powerful Jews have been spared.

The concluding division, devoted largely to economics, paints a dark picture for the liberal-democratic states. The author indicts the Western democracies for their failure to materialize freedom in economic life, to furnish adequate leadership—also wanting under Fascist régimes—and to divorce the state mechanism from the capitalist economy, which, he feels, is now in the twilight of its existence. "Everything," he concludes, "points toward an eventual functional organization of society under a

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technological control, competent to create a genuine social mechanism" (p. 419).

The reviewer feels impelled to call attention to the peculiar dualistic bases of judgment pervading the book. Russia must be judged by the future, not by the past or present, while all other régimes, including one only two years old, must be judged by their historic failures. This appears so distorted a criterion of values as materially to circumscribe the usefulness of the volume. It remains, therefore, an initial venture and not yet a focused, complete synthesis.

MALBONE W. GRAHAM.

University of California at Los Angeles.

The Bolshevik Revolution, 1917–1918: Documents and Materials. BY JAMES BUNYAN AND H. H. FISHER. (Stanford University, California: Stanford University Press. 1934. Pp. xii, 735.)

This volume is one of the series on the Russian Revolution based on documents in the Hoover War Library and planned by the late Professor Frank A. Golder. Golder's *Documents of Russian History, 1914–1917*, published seven years ago, was the first of the series. The new volume, as indicated by its title, follows the preceding one in chronological order. It is primarily a collection of documents in English translation intended to illustrate both the spirit of the Bolshevik Revolution and the development of events in Russia during the first six months of Bolshevik control. The documents quoted, either in full or as excerpts, vary in nature. Some of them are official acts of the government; others characterize the activities of different political parties. Numerous speeches and statements of political leaders are included, as well as excerpts from contemporary memoirs and diaries. There is also a great deal of newspaper material illustrating different aspects of life both in the capital and in the provinces.

A general introduction and brief notes accompanying the documents are provided by the editors, the former giving a résumé of political issues in the period preceding the revolution, i.e., from March to October, 1917, when the Provisional Government was in power. The documents themselves are presented in the form of chapters on different phases of the Revolution, e.g., The Seizure of Power (Chap. II), Toward the Dictatorship (Chap. VI), Brest-Litovsk (Chap. IX). A detailed chronology, an index providing biographical data for the persons whose names are mentioned in the text, and brief bibliographical data on Russian periodicals and collections greatly enhance the value of the volume for the Western reader.

The book is not to be regarded lightly as a mere collection of documents. It is rather a coherent and well planned documentary history of

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the period covered. The attention of the reader is called chiefly to the political struggle and to the interrelations of various parties and groups. However, the gradual extension of Bolshevik control not only over political and administrative agencies, but over economic institutions as well, is also indicated. The process of substitution of the Bolshevik party dictatorship for the "workers' and peasants' government" originally promised is made quite clear.

There are also glimpses into the effects of the Revolution on the social and cultural aspects of life. Since, however, the American reader is probably less familiar with the Russian cultural background than with the political background, the treatment of these aspects seems rather scanty. Much more ample information on these problems would have been desirable, and one may even raise the question of whether these subjects do not merit treatment in a separate volume.

Taken as a whole, the volume is certainly an important contribution to its field, and will be a valuable aid to the political scientist interested in Russian affairs. It is perhaps not necessary to point out, however, that the specialist will want to work in the original Russian source material, of which the Hoover War Library has one of the very few outstanding collections.

GEORGE VERNADSKY.

Yale University.

Condorcet and the Rise of Liberalism. By J. SALWYN SCHAPIRO. (New York: Harcourt, Brace and Company. 1934. Pp. 311.)

Professor Schapiro has more than fulfilled the promise of his earlier books. He combines historical scholarship with rare literary gifts; the citations tucked away in an appendix show that mastery of detail is not inconsistent with liveliness of style. Moreover, the thought of Condorcet, instead of being isolated in eighteenth-century France, is connected with other countries of that time and even with problems of our own day. It is made clear that Condorcet admired America, as Voltaire and Montesquieu had admired England, and that his mature political theory owed much to a close study of American institutions and to intercourse with Paine and Franklin.

Quite the longest chapter deals with the rise of the *philosophes* (*sic*). Condorcet is presented in relation to his fellow-intellectuals, a man of second rank when compared with Voltaire, Montesquieu, or Rousseau, but one who "stands out as an almost perfect example of the pioneer liberalism of the period." His writings "cover every aspect of the philosophy of liberalism, and every phase of its political evolution, from moderate constitutional monarchy to democratic republicanism, from propertied suffrage to universal suffrage for both men and women, from

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laissez faire to social reform." We get a sketch of his activities and ideas—ideas which were supposed to rest upon permanent principles, but which were forever changing—first before and then during the Revolution. Unfortunately for his reputation, he alone among the philosophers of liberalism survived to behold what Morley calls the first bitter ingathering of the harvest. In the storm and stress of revolution, his logic of abstract ideas was put to the test; and Professor Schapiro admits that his rôle in the Legislative Assembly was futile, and in the Convention pathetic.

The main features of Condorcet's liberalism—political, social, economic, religious, feministic, educational—are surveyed in successive chapters. Sometimes we encounter eccentricities, or even absurdities, that result naturally from the rigid application of the deductive method to the complex affairs of society; sometimes, insight that amounts to prophetic vision. For all his admiration of America, Condorcet condemned the separation of powers and foresaw the rise of the boss as an antidote. In advocating the rights of women, he advanced the same arguments that were long afterwards revived in the famous essay of John Stuart Mill. He believed in birth-control and in a very simple method of divorce.

Professor Schapiro is open to criticism on a number of minor points. For example, he is obviously wrong in saying (p. 60) that not one of the *philosophes* was a republican, and that even the most advanced of them favored a parliamentary system such as England had before 1832; and (p. 130) that, according to the modern conception, nationality is determined by the place of abode. The French word *philosophe* is used throughout as an English word, to be distinguished from "philosopher" on the ground that a philosopher is always a metaphysician (p. 30); and yet the word philosophy is actually applied in various passages to the ideas of the *philosophes* (pp. 38, 46, 50).

EDWARD MCCHESNEY SAIT.

Pomona College.

The Permanent Court of International Justice. BY MANLEY O. HUDSON. (New York: The Macmillan Company. 1934. Pp. xxvii, 731.)

On the subject of the World Court, Professor Hudson has earned the right to speak with authority. His present volume will only fortify his already established leadership in the field. It is a wholly admirable product of wide knowledge and painstaking scholarship. On the particular matters with which it deals it leaves little if anything more to be said.

Professor Hudson's volume is mainly a systematic and detailed study of the procedure and practice of the Court as revealed in its documentary history. The book is intended primarily as a reference work for lawyers appearing before the Court and for others who are concerned with the

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Court's organization and procedure. It does not pretend to be a critical analysis of the operation of the Court as an instrument for applying the judicial process to international disputes. Only incidentally does the author comment upon and evaluate the contributions of the Court to international jurisprudence. In the main, he confines himself rigidly to a summary of the relevant documentary material, and is sparing in the expression of personal judgment on the questions with which he deals. Considering the purpose of the work, this restraint is wholly commendable, although it is true at the same time that the life of an institution is only partially revealed in its documentary history.

The first eighty pages are devoted to a consideration of some precursors of the Court; namely, the Permanent Court of Arbitration, commissions of inquiry, the Central American Court of Justice, the proposed International Prize Court, and the proposed Court of Arbitral Justice. Perhaps there is room for a difference of opinion over the amount of space that the author has allotted to these projects. It might be argued, for example, that the ten pages devoted to accounts of the cases handled by the Central American Court of Justice are too detailed for the general student and yet not detailed enough for the practitioner. But in the remainder of the book, which deals with the Court itself, one can have little quarrel with the author's selection and arrangement of material. Part II provides us with an adequate documentary history of the creation of the Court. Part III is a complete and painstaking study of the organization of the Court, in the course of which each article of the rules of the Court is taken up and examined separately. The jurisdiction of the Court is considered in detail in Part IV, and its procedure and practice in Part V.

Part VI, which deals with the application of law by the Court, will be in many ways the most interesting section of the book for students of law. It is, of course, concerned primarily with the question of the interpretation of treaties, which has been the chief activity of the Court to date. As might be expected, Professor Hudson's analysis of the decisions of the Court on this question is competent and enlightened. If he is subject to any criticism at all, it is that he tends perhaps to under-emphasize the frequent inconsistency between what the Court has said on this subject and what it has done. Few will deny that, in the main, the Court's interpretations of treaties have been on the side of enlightened social judgment, but the opinions supporting these decisions have been by no means free from logical crimes and legal folk-lore. Perhaps there will be fewer of these in the future, after the members of the Court have had an opportunity to ponder their past record as presented in Professor Hudson's pages.

The author's indefatigable labors in the gathering of documentary

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material have resulted in a reference work that is notable for its accuracy and completeness. It will prove an indispensable manual for international lawyers.

FREDERICK S. DUNN.

Johns Hopkins University.

Crime and Criminal Statistics in Boston. BY SAM BASS WARNER. (Survey of Crime and Criminal Justice in Boston Conducted by the Harvard Law School. Volume II. Cambridge: Harvard University Press. 1934. Pp. x, 150.)

This is the most incisively scientific examination of mass statistics as to crime from the methodological point of view that has appeared. In a compact volume, expressed with trenchant lucidity, the author, whose prior contributions in this field are well-known and distinguished, has treated in detail various strategic difficulties involved in obtaining and interpreting comprehensive judicial statistics and indicated appropriate methods for their solution. That the discussion is directed primarily to the situation in Massachusetts does not diminish its general significance. It will, of course, be most immediately suggestive to the expert, but the volume is also confidently to be recommended to the general reader, interested in the values and unescapable present limitations of statistical information as to crime.

In general, the treatment breaks into two parts, the first being incorporated in the first three chapters and answering to the question, What knowledge is available as to the amount and causes of crime? It is demonstrated that the amount of crime cannot at present be accurately known; that the only basis of information is a count of arrests, prosecutions, convictions, and similar events, from which, with a more or less substantial and unknown margin of error, according to the particular species of crime considered, speculative inferences are drawn. Similarly, it is indicated that the major trends in the figures as to prosecutions since 1883, such as the decrease in assault and battery cases, cannot be explained conclusively, while annual fluctuations are attributable, in part, to casual local causes and, in part, to more general factors, the significance of which statistical science is not yet in a position to measure or even, frequently, to assert. The analysis of the correlations between drunkenness and war, prohibition, and poverty, in the third chapter, is peculiarly instructive, as it suggests that a remarkable similarity in the curves of arrests for drunkenness for a decade, i.e., from 1915 to 1925, is, in view of the figures for the years before and after those dates, a fragile basis for statistical inference as to the causation of this particular form of offense. It does not lessen the import of these conclusions that they are dominantly negative. It is of capital value to have it demon-

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strated, as these chapters so effectively do, that the science of criminal statistics yet has the status of an infant, and to know what is not known.

The later chapters (IV–VII) deal in detail with the issues presented in planning an appropriate system of judicial statistics as to crime. Without endeavoring to canvass the details, important as they are for practical purposes, certain general conclusions may be noted. First, in spite of limited significance, the importance of mass criminal statistics as a balance sheet of society's efforts to curb crime, both as an instrument which will be found increasingly essential to the effective administration of justice and also as an index to problems and areas requiring more intensive study. Second, the serious and inherent defects in the system of collecting data as to crimes known to the police, arising from variations in criminal law and administrative practice, the absence of a standardized method of reporting crimes known to the police, and inadequate control over voluntary reports. Third, the desirability of collecting criminal judicial statistics on a state-wide, rather than a local or primarily national, basis. Fourth, the need of simplicity and precision and, where these values are not sacrificed, of comparability in the state statistical systems, that the results may be reliable and economically secured. These conclusions are less obvious than they seem; together with the specific statistical plan for Massachusetts outlined in Chapter VIII, they should prove of high significance in determining the direction of future effort in this fundamental field of scientific inquiry.

HESSEL E. YNTEMA.

University of Michigan Law School.

BRIEFER NOTICES

AMERICAN NATIONAL GOVERNMENT AND POLITICS

In addition to his timely reports of changes and additions in national administration made by statute or executive order during recent months, which have appeared in this REVIEW, Laurence F. Schmeckebier, in his *New Federal Organizations* (Brookings Institution, pp. 199), has performed a service of great value to all who seek authoritative information concerning the establishment, organization, and activities of the administrative agencies of the New Deal. The book includes descriptions of all units created by statute or executive order between March 4, 1933, and July 1, 1934, and two earlier ones—the Reconstruction Finance Corporation and the Home Loan Bank Board—whose functions have been materially extended. The descriptions include a brief statement of the purposes of the agencies, the authority for their creation, the extent of their field organization, and a summary of their activities expressed mainly in terms of financial operations. No attempt is made to pass

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judgment upon the policies involved in the establishment or enlargement of these agencies nor upon the type of organization used. In an introductory chapter, changes in the number of federal employees are shown and the agencies exempted from the classified civil service enumerated. All of the new units are listed chronologically and are classified by activities and duration, by purpose, and by method of creation. The chapter arrangement which follows groups them under the following titles: Loans and Insurance, Labor Relations, Economic Emergency, Coördination and Planning, Other Permanent and Other Temporary Organizations. A good index enhances the usefulness of the volume which, in the opinion of the reviewer, is the most informative of all the numerous books and pamphlets purporting to describe the agencies and activities of the New Deal.—LLOYD M. SHORT.

In his *It's Up to Us* (Alfred A. Knopf, pp. xiii, 207), James P. Warburg assumes in general the soundness of private initiative as against governmental regimentation and pronounced interference with the economic life of the people. His analysis of the governmental program and of existing economic conditions is not premised on the *laissez faire* principle, but accords more with the spirit of programs of the first Roosevelt and Woodrow Wilson. There is need for a more extended use of the police power of the state, but not to the point of governmental ownership and operation of business, manipulation of the currency, or limitation of agricultural or industrial production. The author points out the impossibility of maintaining a consistent, extensive, and intensive program of national economic planning within the scope of the present constitution, which premises government based on popular majorities. He sounds a warning of the danger of an unconscious and unplanned drift into state socialism unless the people pause and take thought as to the significance of large parts of the present new legislation. Professor Schuyler Wallace's *New Deal in Action* (Harper and Brothers, pp. x, 342), on the other hand, professes to start from no assumed theory of state action. The Roosevelt assumption of a national economy "critically out of alignment" and the resulting necessity for drastic governmental action, experimental and trial-error in nature, is stated. The author then proceeds with a description of the various segments of the New Deal program: finance, agriculture, industry, the home-owner, transportation and communication, water power, and relief and public works. The background and history of each of these problems is stated briefly, the purpose and content of each major statute under it, the administrative machinery set up, and the results to date. The book is largely a compilation of the articles on current government which have appeared regularly under the author's name in the magazine *Today*. The objectives of the present administra-

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tion are stated and assumed with no reference to that part of the legislation which was passed on grounds of politics and expediency. Notwithstanding this fault and its generally non-critical nature, the volume embodies in short compass one of the most useful descriptions, for the layman, of the intricate governmental machine and program. Both of the volumes reviewed are written in clear and non-technical language.—EARL L. SHOUP.

The kind of reasoning that enables the economist to foreknow all but precisely the consequences of every governmental interposition into business affairs leads Ralph Robey in his *Roosevelt versus Recovery* (Harper and Brothers, pp. 163) to conclude that ultimate disaster awaits the recovery program of the national government. According to the author, efforts to reëstablish prosperity, as distinguished from relief and reform, are directed primarily along five lines: "monetary manipulation, government spending, the regimentation of industry, the agricultural program, and the giving of government guarantees on private obligations." Admitting that "economic soundness is not easy to define," Mr. Robey sets forth certain "requisites" of a sound economy and then asserts (p. 153) that "each of the five major divisions of the recovery aspects of the New Deal has gone contrary to the fulfillment of these requisites." Continued injections of artificial stimulants, he concludes, are absolutely necessary if the patient is not to keel over from the treatment already administered. Whether or not Mr. Roosevelt and Mr. Farley know this, one gathers that they sense that Democratic incumbency terminates when federal easy money is no longer forthcoming. Hence the title of the book. There is an enlightening discussion of the origin of the industrial code policy as a device for driving inefficient enterprises out of competition, and of its conversion, because of impending inflation, into a public omnibus to haul every industrial cripple and incompetent to the clover of 1926 prices. *Challenge to the New Deal,* edited by Alfred M. Bingham and Selden Rodman (Falcon Press, pp. 284) reprints from the magazine *Common Sense* thirty-nine articles characterized by the publishers as "the matured thinking of thirty-five well known American radicals." The attacks on the present order are for the most part neither sharp nor comprehensive. Among the abler presentations are: "Big Business and the N.R.A.," by John T. Flynn; a discussion of monetary policy, by Lawrence Dennis; some ridicule of profit-taking, by Walter N. Polakov; analyses of America's capacity to produce, by Harold Loeb and Wayne Parrish; arguments for a shift in the strategy of Communist leaders, by Thomas R. Amlie and Lewis Mumford; an examination of group interests and antagonisms, by A. J. Muste; and a proposal for the abolition of the business corporation, by Henry Pratt Fairchild. Included in the list of contributors are Philip F. LaFollette, Theodore Dreiser, Milo

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Reno, John Dos Passos, Mary van Kleeck, Stuart Chase, Upton Sinclair, and John Dewey.—CHARLES S. HYNEMAN.

In the foreword to his *Government Experimentation in Business* (John Wiley and Sons, pp. xi, 238), Warren M. Persons states that the book is "an outgrowth and expansion of an historical survey made in 1933 for the information of the Edison Electric Institute." The scope of the work is restricted to American federal and state undertakings, leaving out not only municipal government enterprises, but all government enterprises which are not supposed to be "self-supporting." The author's purpose is to include in one moderate-sized volume the history of federal and state embarkations upon private business. The list of undertakings is extensive, covering the period 1776–1933, and including some enterprises that are familiar to most readers of American history and some that are not so familiar. The story is calculated to discourage, rather than encourage, future attempts by our national and state governments to enter the field of private enterprise. Ford P. Hall's *Government and Business* (McGraw-Hill Book Co., pp. x, 265) is a forerunner of a more complete volume by the same author at a later date. As explained by the author, it is now published in abbreviated form because so many changes in the relation of government and business are anticipated in the near future that eventual publication in more complete form must necessarily be delayed until later. If the present volume is a sample of what the author is yet to produce, it should be welcomed by political scientists quite heartily. The relation of government to business is now recognized as quite as important a part of the general field of political science as it is of that of economics, and teachers who have been conducting such courses in political science will find this volume very useful, either as the text in their courses on government and business or as assigned reading for students in general courses in American government. Complete, yet brief and compact, it adds another link to the chain which is slowly but surely drawing economics and political science once again into a more integrated unit of collegiate and university instruction. The book has been prepared carefully, and is definite and accurate.—EARL W. CRECRAFT.

In *Jeremiah Sullivan Black; A Defender of the Constitution and the Ten Commandments* (University of Pennsylvania Press, pp. ix, 303), William N. Brigance has written a creditable and workmanlike biography which contributes to the history of the sectional war and reconstruction. Black was an amazing example of the type of mind which found the answers to all great political questions in the words of the Constitution. Considering the days through which he lived (he died in 1883), this was no mean feat. No doubt the enforcement of the Constitution and the laws from 1850

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to 1876 would have had much more reasonable results than those achieved by other methods, but law has never been able to dam up such struggles as the sectional war represented. It is good to recall, nevertheless, that in such times men of this faith could be found to argue for Milligan and McCardle, and against the impeachment of Andrew Johnson. There is not much in the book about the Ten Commandments, but to Black the Constitution and the Ten Commandments were substantially the same thing. He missed the chief justiceship only because Taney failed to resign, as some expected, before the close of Buchanan's term. Mr. Brigance has based his study on the existing Black papers, and has given due emphasis to Black's devotion to the law, his moral force, and his massive eloquence. —LLEWELLYN PFANKUCHEN.

The Roosevelt Omnibus (Alfred Knopf, pp. 174), edited by Don Wharton, is a collection—the editor prefers the word "selection"—of articles, snapshots, and cartoons on Roosevelt the man, his public and family life, his administration, and his close associates. The book is very elaborately put together. In appearance; it is just such a book as one would expect to find at the base of the Christmas tree. The articles taken from the *New Yorker*, *McCall's*, *To-Day*, *Fortune*, the *New York Times*, and the *American Mercury* are chatty, informal, and pleasant reading. The thirty-three pages of snapshots, old and new, the fifteen pages of cartoons and caricatures, and the twenty-eight pages of family trees, newspaper facsimiles, and miscellany are all chosen with an undoubted knowledge of what interests *homo Americanus* in the life of a public man. In the reading material there is strikingly little repetition. Students of political leadership will find the book a valuable and fascinating compilation of fact and opinion. Political scientists who like to mix a little politics with their psychopathology will find many of the President's idiosyncrasies herein recounted.—JEROME G. KERWIN.

STATE AND LOCAL GOVERNMENT

The past twelvemonth has been one of momentous import to civic planners. The enormous stimulus of federal money has impelled immediate attention to many problems which normally would not have arisen for several decades. For this reason, the current volume of the *American Civic Annual* (American Civic Association, Washington, D. C., pp. xii, 278) is of particular interest to those concerned with the orderly and rational physical growth of the publicly provided environment. The volume is divided into four sections, dealing with objectives and accomplishments of national, regional, state, and municipal agencies, respectively. This year, the section on the activities of the national agencies dominates the *Annual*, just as they have dominated the planning field itself. The section on regional activities includes significant discussions

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of various aspects of the TVA, of the Mississippi Valley Committee, and of important developments in county planning. The state planning section deals in the main with the newly developed state planning boards, highway planning, and the conservation movement in the states. The municipal section is extremely compact, but contains two particularly interesting articles on restored Williamsburg, Virginia, and the new TVA town of Norris, Tennessee. The comment made by Dr. Anderson anent the recent *Municipal Yearbook* applies with equal force to the civic annual, and, it may be suspected, to most of the annual publications of groups concerned with civic affairs. Considerably more specialization will be necessary before these books really get anywhere. A thorough treatment of one or two main developments in civic planning in each of the annuals would ultimately contribute much more to the literature of the subject than the present highly dispersive plan utilizing an enormous number of two- and three-page articles which actually say very little. This, of course, would eliminate most of the "bigwigs" who have no time for more than the politer inanities, but it would provide a sort of main stem to make the imposing body of literature on civic planning somewhat intelligible.—ROWLAND EGGER.

The *Report of the Commission on the Administration of Justice in New York State* (Legislative Document (1934) No. 50, pp. 1016) deals with the uncertainty, cost of litigation, and delay in New York judicial administration. "Unwarranted delay in nearly every court of the state" is the most serious problem. In the supreme court, the trial of non-preferred jury cases runs as far behind as thirty-six months. The general calendar in Kings county is forty-nine months behind. A delay of over six months in tort and two months in commercial cases is believed to constitute a denial of justice. Instrumentalities already tested in other jurisdictions are urged for improvement. These include abolition of interlocutory appeals; entering of final judgment by appeal courts to avert re-trials; state-wide mobilization and assignment of judges; authorization of county and surrogate judges to sit in the supreme court; greater use of referees; adoption of the Cleveland master calendar plan; eventual replacement of the justice of the peace system in rural areas by district courts; establishment of a judicial council composed of the chief judge of the court of appeals, the presiding appellate division justices, the chairmen of the legislative judiciary committees, four lawyers, and two citizens; and the creation of a permanent law revision commission modeled after European ministries of justice. Increases in personnel are held to be unnecessary if these alterations are effected. The *Report* and the supporting studies, authorized by the legislature in 1932 and directed by Professors Moley, Oliphant, and Saxe, set a high standard of ad-

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ministrative examination and contain significant indices by which the field may be gauged in other states.—NORMAN J. PADELFORD.

In *Colorado; Its Government and History* (Denver: Herrick Book and Stationery Co., pp. 108+98), Lashley Green Harvey and Frank C. Spencer have prepared a text which will appeal to students of the junior high school age. The part devoted to government is descriptive and not too detailed, and though labeled "functional," departs very little from the usual civics approach. The reviewer found the historical portion, devoted to the Old West as well as to the newer West, especially well written and stimulating.

FOREIGN AND COMPARATIVE GOVERNMENT

One of the most distinctive contributions to an understanding of contemporary Germany is Professor James K. Pollock's excellent monograph on *German Election Administration* (Columbia University Press, pp. 71), a part of the series on "Aspects of German Political Institutions" edited by Lindsay Rogers. As an inquiry into the actual process of consulting the sovereign electorate on issues and candidates, legislative and presidential, it is an extraordinarily exact and objective handling of a difficult, technical subject. The author first determines the legal and constitutional functions of election authorities, discusses most illuminatingly the intricate procedure of registration, evaluating the different systems in use, the selection and competence of election officials, nomination procedure, and the actual conduct of elections. The reproduction of facsimiles of the actual documents used, from registration through elections, adds life and realism to the treatment, making it decidedly vivid. Although critical of the unusual slowness of ballot-counting, the author has nothing but praise for the accuracy, honesty, and low cost of the electoral system. For this the methods of German administration are responsible, as is also the practice of non-compensated citizen election service. Election statistics are admirably kept and are entirely accurate and reliable. Of genuine value is the objective study of the workings of proportional representation in Germany, which the author finds "so faulty . . . that the cause of proportionality has been measurably harmed." A final section of the monograph shows how the electoral mechanism has worked under the Nazis. All told, the study is a landmark of accuracy, insight, and clear interpretation which, given the hectic circumstances in contemporary Germany, only a searching study undertaken without prejudice or bias could produce. Professor Pollock leaves us all deeply in his debt.—MALBONE W. GRAHAM.

In *Fascist Germany Explains* (Covici Friede, pp. 135), Celia Strachey and John G. Werner have brought together a series of quotations culled

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from the program of the National Socialist party, from speeches and formal literary efforts of the Nazi leaders, and from statements attributed to them in the press. Beyond furnishing some amusing examples of the occasional imbecilities of the German propaganda office and confirming a widespread belief that Nazi policy in general and the policy of the author of *Mein Kampf* in particular are quite opportunistic and sometimes even obscure, the volume contributes little to an understanding of contemporary Germany. A much more serious effort in that direction is made in *Strong Man Rules* (D. Appleton-Century Co., pp. ix, 291), by Mr. George N. Shuster, editor of the *Commonweal*. The volume comprises a rapid reportorial survey of Germany during the period of National Socialist transition written from a background of long observation of Germany, much of it at first hand, and of a thorough appreciation of German culture and history. The introductory chapters detail with fine discrimination the ideological and sociological setting of Hitler's rise to power after 1929. These are followed by an examination of recent Nazi military, racial, ecclesiastical, and social policies which reveals vividly how the Third Reich of the prophets differs from the Third Reich of the politicians. For Mr. Shuster, the tragedy spelled by Hitlerism is that implicit in most contemporary European dictatorships, which can offer nothing better than a spiritually hollow nationalism and force to reintegrate a society which the era of liberalism has abandoned to chaos or, at least, to a formless existence. Although the exigencies of a deliberate informality sometimes lead the author to explain phenomena with an expletive or an arresting phrase rather than with logic, his book is conscientiously objective in treatment, contains much sagacious comment, and ventures not a few predictions which history may yet verify.—ARNOLD J. ZURCHER.

Some progress is being made by the more serious writers in the tone and temper of the books that are now appearing in English on the present German Chancellor. He is no longer portrayed as a lunatic who has escaped from the psychopathic ward of an insane asylum, brandishing the torch of war. In the little book, *Adolf Hitler*, by James Murphy (London: Chapman and Hall, Ltd., pp. 184), though "written at the request of the publishers," we have a brief account and an analysis of the background and fundamental causes by which "a house-painter's mate" rose from obscurity to the head of a great state. The abstract theories of the "very learned professors of political science" in pre-war Germany had not inoculated the minds of the masses with any tangible program by which to meet and overcome the depression which followed the lost war. And the more the learned solutions under the Republic piled on one another, the more deeply the country sank into distress.

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Then came Hitler; and he was the first to arouse the political interest of the populace at large and to awaken it, not in favor of a mere party program, but in favor of a program which would revolutionize the whole social-economic and political system. It was because of this fundamental appeal to the masses that Hitler, with a "peasant mind," succeeded where the abstract theorists, such as Bruening, had failed. This is, of course, not the whole story; but the author is undoubtedly right in seeking the explanation of Hitler's power in a popular movement rather than in metaphysical speculations or abstract theories. A good book for those who wish a general survey of the rise of Hitler.—KARL F. GEISER.

In *Hitler: Whence and Whither?* (Review of Reviews Corporation, pp. xx, 189), Mr. Wickham Steed, the well-known English journalist, has given us a very interesting, readable, and compact picture of the Hitler movement. Drawing upon his own extensive experience in Germany and Austria, he has been able to present in brief compass quite an adequate treatment of a most confused state of mind. Intended as "an introduction to the study of one of the most remarkable phenomena of modern times rather than as a full description of it," the book admirably achieves its purpose. As a necessary prelude to an understanding of Hitlerism, Mr. Steed has presented a brief but adequate discussion of the "Nordic Legend," and by reference to Chamberlain and Gobineau has given clarification and emphasis to one of the mainsprings of Nazi thought and action. Drawing upon Hitler's autobiography, the author quite accurately characterizes the leader of the movement and points out the influences which have counted for most in his development. No attempt is made to judge Hitler and his movement by their accomplishments since their accession to power in 1933. Even the chapter on "The Totalitarian State" explains rather than evaluates. But, all in all, this is an excellent study of Hitlerism, and one well worth reading.—JAMES K. POLLOCK.

One of the projects undertaken in preparation for the unofficial Conference on British Commonwealth Relations held at Toronto in September, 1933, was the compilation of a handbook on the existing machinery for common action. Having proved useful to the delegates at the Toronto Conference, this handbook has now been published as *Consultation and Coöperation in the British Commonwealth; A Handbook on the Methods and Practice of Communication and Consultation Between the Members of the British Commonwealth of Nations*, compiled by Gerald E. H. Palmer (Oxford University Press, pp. lix, 264). All official agencies of inter-communication and common action from governors-general to economic and scientific advisory councils are surveyed. Agencies which are unofficial and voluntary in character are not included. The whole handbook, and particularly the sections describing the procedure of con-

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sultation and agreement, are of peculiar authority, since many experts in the separate member-states of the Commonwealth were consulted and the whole received the approval of the Toronto Conference. Professor A. Berriedale Keith has contributed, as an introduction, a survey of the constitutional development of the British Empire in regard to the Dominions and India from 1887 to 1933. A carefully compiled bibliography and a well-arranged index add to the usefulness of the handbook. The organization and practice of intra-Commonwealth coöperation, thus marshalled, reveal in all its splendor the spirit of friendliness and goodwill which permeates this remarkable aggregation of nations. In both spirit and organization, the British Commonwealth has much to teach the world at large about international coöperation, and the lessons are plain in this description of the agencies and methods so far developed.—JOSEPH R. STARR.

In his *Canadian Anti-Trust Legislation* (Williams and Wilkins Company, pp. vii, 105), John A. Ball gives a careful, detailed, and well-documented account from 1888 to 1934. Adequate attention is paid to the earlier legislation; but the principal emphasis is placed upon the Combines Investigation Act of 1923, its operation and results. While the author is interested chiefly in the legal aspect of the subject, he gives much incidental information as to the practices of Canadian combines. He also emphasizes the Canadian viewpoint towards the relation between government and business. This has been to regulate with a minimum of interference and control, and to preserve for the public the beneficial results of large-scale organizations while protecting it against the abuses arising therefrom. Legislation has not been directed against combines as such, but against those combines which by undue price-fixing, preventing or lessening competition, etc., have operated to the detriment of the public, whether consumers or producers. A salient characteristic of most Canadian anti-trust legislation has been its flexibility, permitting each case to be judged individually in the light of whether or not the interests of the public have been unduly or unreasonably affected. Canadian legislation has also relied upon investigation and publicity rather than upon prosecution. The disallowance of the acts of 1919, which established a Dominion board of commerce with somewhat drastic powers, illustrated the effects of judicial interpretation upon the Canadian constitution. The Judicial Committee of the Privy Council declared the acts to be *ultra vires* of the Dominion Parliament because, while it had the exclusive right to regulate trade and commerce, the provincial legislatures had the sole right to legislate concerning property and civil rights in the province. While the sources are given in the footnotes, the book would have been improved by a bibliography, and also by an index.—LENNOX A. MILLS.

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In *China's Red Army Marches* (Vanguard Press, pp. xxi, 311), Agnes Smedley presents the story of the Chinese Communist movement from the break between the Kuomintang and the Communists. The method, that of the writer of fiction rather than that of the historian or political scientist, makes for vividness of treatment. On the other hand, it would be difficult to construct a chronology of the Communist segment of recent Chinese history from the book. It is equally impossible to get from it a clear picture of the organization of the Chinese Soviet system. But the reader will get from it what the author quite definitely set out to give, i.e., an understanding of the reasons for the existence of an active Communist movement in south-central China, an appreciation of the difficulties which the movement has faced, and an impression of the reasons why the Kuomintang has found it difficult to crush Communism by force. Essentially, as it is accurately presented by Miss Smedley, the Communist movement is a movement of the peasants against the landlords. Its program is basically that of agrarian reform. To accomplish the necessary reforms, it has been compelled to build up an army which has been the central factor in the struggle. It is through a portrayal of the vicissitudes of the Red Army in the struggle against the Kuomintang that the author brings out the real issues underlying the military struggle. She does it not only with vividness, but with a real understanding, which is no less accurate because based upon a deep sympathy with the cause for which the Red Army marches and fights. This sympathy leads to a measure of unfairness of characterization of the attitudes and aims of the Kuomintang, whose supporters she consistently refers to as the "running dogs" of capitalism and imperialism. This bias detracts from the value of the book, which is, nevertheless, thoroughly worth reading.—HAROLD M. VINACKE.

In *The Housing Program of the City of Vienna* (Brookings Institution, pp. xii, 143), Charles O. Hardy presents succinctly an array of facts not heretofore readily available in English about the most dramatic program of municipal housing ever undertaken. This little volume, the author states, is mainly an abstract of a larger work projected, but not yet published, in German, by his associate, Robert R. Kuczynski. It paints in short chapters the pre-war housing situation, the political background, and the circumstances after the war, in terms of which the actual program must be interpreted. It is good to see that Dr. Hardy finds it worth while to describe administration and management as well as design and finance. In his "Conclusions," he presents a number of problems of basic policy as to which the city government had a choice of alternatives, and appraises the wisdom of those choices. He feels that "given the conditions which existed in Vienna after the war, public housing construc-

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tion was a necessity," but that these circumstances were so special that the Vienna experience does not go "far to demonstrate that the provision of shelter is in general one of those services which cannot be performed satisfactorily through private enterprise without governmental subsidy or governmental participation." This is indeed a cautious conclusion.—CHARLES S. ASCHER.

Internecine battles of the Russian Communist party are fought once more in the pages of *The October Revolution* (International Publishers, pp. 168), by Joseph Stalin, and settled with due reference to the authority of Lenin. The book is a collection of articles and speeches of Stalin, covering the period 1918–28, most of them aimed at Kautsky, the Mensheviks, the Social-Revolutionists, Trotsky, and one or two lesser heretics. Attacks upon the Trotsky "legend of the October revolution" and upon Trotsky's theory of permanent revolution occupy a good third of the book. As the official version of the development of some aspects of the revolution, and as an example of Stalin's style of argument, the collection perhaps has some value. But since most of the articles are taken from *Pravda* or from speches before party conferences, their tone is highly polemic and popular; and most of the argument presented has been better stated by Stalin himself elsewhere.—JOHN D. LEWIS.

Among the various studies which have arisen out of the critical events of early 1934 in France, the brochure entitled *La Réforme du parlementarisme* (Sirey, pp. 33), by M. René Capitant, professor in the Faculté de Droit at Strasbourg, is eminently worth reading. The author asserts, and proves by his performance, that a restatement of the familiar characteristics of the French variant of parliamentary government is the most satisfactory introduction to the question of the reform of the system. Though he takes England as a model and adds nothing essentially new to the proposals for rendering the French system more like the English, his study possesses genuine freshness and is both persuasive and profound.—R. K. GOOCH.

INTERNATIONAL LAW AND RELATIONS

In his *The American Doctrine of State Succession* (Johns Hopkins Press, pp. 133), Herbert A. Wilkinson confines his study to the issues presented by a "territorial reorganization accompanied by a change of sovereignty" and considers only those cases "wherein a new state power is extended over or set up in a territory in place of another state power or organization." The cases in question are presented with a view to showing the policy and practice of the United States in dealing with problems arising from changes of sovereignty in which it has been involved. Dr. Wilkinson discusses these problems in detail and supports his statements

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with an abundance of citations of relevant judicial decisions, treaties, and state papers. In considering the effect on public law and government of a transfer of sovereignty, the author maintains that it is "well established" that the legislative, administrative, executive, and judicial powers and the public domain of the old state pass to the new, but on the other hand that the public laws of a ceding state which regulate the exercise of these powers cease to be in effect as the public laws of the successor are substituted. He believes that the answer to the question as to why public and political right and obligations are "affected by a succession of states" may be found "in the acceptance of the juristic concept of the state by the American courts." With reference to private law and private right, Dr. Wilkinson points out that such law and these rights are upheld by the successor state. He emphasises the view that the practice of the United States as regards the effects of state succession show the existence of two distinct categories of rights and obligations, public and private, and that this practice shows a difference of treatment as regards each of the categories in question. He brings this out in his chapters on the effect of change of sovereignty on nationality, public debts and financial obligations, and treaties, and in his final chapter on "The American Theory of State Succession." The author finds that while what has been done by the United States and the opinions as to why it was done present a general theory and a rather consistent practice, particular opinions and theories advanced to explain acts have often been inconsistent. He admits with dry humor that this may "invite the cynical to remark that the whole business is an invalid manipulation of logic and principles to gain certain ends," but feels that there "should be some consistency and some singleness of purpose."—CYRIL WYNNE.

Clark Foreman's *The New Internationalism* (W.W. Norton and Co., pp. 154) is the fourth in the Social Action Series, edited by Alvin Johnson. The author analyzes the concept of internationalism, traces its growth, and examines into its practical working throughout the years, his avowed purpose being to discover a theory of internationalism that will fit the realities of national and international life. His analysis leads him to conclude that the system under which the world has generally been operating, and which he calls "capitalist internationalism," has now "passed into history;" that the alternative system of "socialist internationalism," preached by Karl Marx and others, is a system which "only the wishful thinkers" can any longer hope for; and that the system of national planned economy, as developed in Turkey, Italy, Russia, Germany, and the United States, is to be preferred because it clearly recognizes and builds upon the intense feeling of nationalism, while at the same time promoting a reasonable amount of international coöperation. These findings

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lead to the formulation of the new theory of internationalism as follows: "That nationalism will certainly for some time to come be one of the elements that cannot be ignored or theorized away. The new international theory will be based on national units acting as units in world coöperation. Under the new internationalism, political and economic spheres will be coincident, and instead of a super-nationalism that exploits vast areas of the world for the benefit of others, each political unit will be definitely responsible for its own economic welfare" (p. 134). There may be some question whether this is really a new theory. The reviewer has had the impression that nationalism and the theory of national states were the most powerful factors in the operation of such an international system as we have had since the Peace of Westphalia, and he agrees that these concepts seem likely to be powerful for some time to come. But even if Mr. Foreman's theory is not completely new, his analysis is interesting and provocative of thought on a most important problem.—CLARENCE A. BERDAHL.

British Opium Policy in China and India (Yale University Press, pp. ix, 399), by David Edward Owen, is a scholarly, well-poised, and interesting study of policy and procedure respecting the manufacture of opium in British India and certain Native States for the China trade, of the significance of this industry in Indian finance and in China's foreign trade and domestic affairs, of Chinese policy toward the traffic, and of the effects of the unsavory business upon Anglo-Chinese relations. It does not deal with British policy toward the consumption of the drug in India. Beginning his account with the evidence upon the introduction of *afyun* by Arab traders into India, the author provides a detailed history of opium production in Bengal and its sale in China. The steps leading to the monopoly of manufacture by the East India Company and later by the crown government, together with the working of the system, form the core of the study. Other chapters relate the negotiations for legalization, the investigation of the Royal Commission, and the means taken to end the trade. Throughout the study, emphasis is placed upon the desire for revenue and its demoralizing effect upon officials at Calcutta and Westminster. However, the author does full justice to the popular opposition to the trade in England and to the influence of reformist sentiment, less important than the decline in revenue caused by poppy cultivation in China, upon the government's decision to terminate the traffic. He describes the devious method of trading in the drug at Canton, and his exposition of the contradictory currents of Chinese opinion toward it is adequate and impartial. He considers that "to the Chinese [the war of 1839–42] was an opium war, pure and simple;" while he finds British drug shippers desirous of war in their own interests,

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he absolves the East India Company of blame and holds that to the British government "the breach with China was intended to serve interests other than those of Indian opium." The book is excellently documented and attractively printed. The index is unusually full and usable—HAROLD S. QUIGLEY.

In a small volume of lectures delivered at the University of Toronto, *The Heritage of Freedom* (Charles Scribner's Sons, pp. ix, 136), Professor Shotwell offers a survey of certain attitudes toward coöperation in world affairs. On the historical side, chief attention is given to the United States, which has developed "two great principles of international politics: non-involvement in European affairs and non-involvement of Europe in American affairs." Failure of this country to enter the League is considered a great political mistake. The chief political effect of the World War upon the United States is seen as the passing of the "parochial state of mind" with reference to world affairs. The English-speaking nations, as outstanding examples of those societies "which still embody the spirit of liberal democracy," are contrasted with Continental European states—the "Conservatives of world politics," combining "the traditions of Rome." Considering that the former group are opposed to rigid, automatic, or military sanctions to secure international coöperation, Professor Shotwell suggests a system of "permissive sanctions (p. 109) as commending itself to countries with a heritage of freedom. The application of such labels as "liberal" and "conservative" to nations and their external policies, even when developments are being sketched in broad outline, may give rise to differences of opinion. The present volume seems to the reviewer to afford a useful summary of American policy, a proper emphasis upon the ideal pacific relations maintained between Canada and the United States, and a reminder that the United States "is fundamentally at one with Great Britain and the Dominions in its attitude toward world organization."—ROBERT R. WILSON.

Special interest attaches to Walter H. Ritsher's study of *Criteria of Capacity for Independence* (Syrian Orphanage Press, pp. 152) on account of problems surrounding the termination of mandates and the granting of independence to dependencies. Following an examination of the conditions which Iraq was required to meet before being released from mandatory control, the author takes up the independence movements in the Philippines and India. Further data are collected from the policies of nations in the recognition of new states and from the practice of the League of Nations in admitting new members. In view of the similarity of the problems involved, it would seem that a more penetrating discussion of recognition policies might have been in order. The lines of investigation followed by the author required a judicious use of a wide

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variety of materials ranging from political speeches and platforms to committee reports, legislative hearings, and documents of the League of Nations. While these materials are taken at their face value, Professor Ritsher would doubtless admit that they are often propaganda or rationalizations of the inevitable, and that independence is commonly granted when political conditions dictate the expediency of such action. The conclusions from the study are not startling. The author finds that the existence of a stable government and an intention to fulfill international obligations are quite universally imposed as requisites for independence. While there is wide agreement as to the types of evidence admissible in proving the existence of such conditions, there is no common standard of measurement to apply to the facts as found. For instance, ability to maintain order may be measured by either American or Philippine standards as to what constitutes order. The usefulness of the volume rests more on its inclusion of pertinent data and its clear statement of existing practice than upon the novelty of its conclusions.—N. L. HILL.

It may be wise in time of peace to revamp our statutes on neutrality. It may also be advantageous to sift out the various inconsistencies in our treaties pertaining to the treatment of commerce during war. Mr. Carlton Savage, of the division of research and publication in the Department of State, furnishes the documents for such revisions and also for studies of what the policy of the United States toward maritime commerce in war has been. Presumably another volume will furnish the materials from 1914 to the present for further studies of what that policy is. Mr. Savage's book, *Policy of the United States toward Maritime Commerce in War*, Volume I, 1776–1914 (Government Printing Office, pp. xvi, 533), contains excerpts from treaties, diplomatic correspondence, and court decisions. The purpose has been to focus the material on the following points: (1) enemy goods on neutral ships; (2) neutral goods on enemy ships; (3) definition of contraband of war; (4) the rule of war of 1756, continuous voyage, and ultimate destination; (5) validity of blockade; and (6) immunity of private property at sea. In furnishing 121 pages of comment, Mr. Savage has followed the documents closely, and has refrained from venturing opinions of his own. Particularly valuable for its source material, the book will no doubt be used extensively by advanced students of our foreign policy in our colleges and universities.—CHARLES E. HILL.

The Doctrine of "Rebus Sic Stantibus" in International Law (University of Missouri Studies, 1934, pp. 93) is an unusual and razor-like dissection of the subject by Dr. Chesney Hill. Central for positivists is Chapter II, "Evidence of a Rule of *Rebus sic stantibus* in International Law," which is distinguished sharply from precedents involving a mere invoca-

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tion of the doctrine on the one hand, and from "alleged precedents" on the other. Dr. Hill concludes with the belief that the following is the only definition recognized by states as the rule of customary international law: "A treaty of perpetual or indefinite duration which contains no provision for revision or denunciation lapses, in the sense that stipulations which remain to be performed cease to bind the parties to the treaty, when it is recognized by the parties to the treaty or by a competent international authority that there has been an essential change in those circumstances which existed at the time of the conclusion of the treaty, and whose continuance without essential change formed a condition of the obligatory force of the treaty according to the intention of the parties" (p. 83). This might almost pass for a definition of *pacta sunt servanda*, but it is infinitely preferable, for instance, to the frowsy doctrine advanced by Secretary Blaine as a reason for the revision of the Clayton-Bulwer Treaty (p. 55). It seems much better to rest frankly on the necessity for a "competent international authority," where in practice Dr. Hill's rule leaves us, than to disguise a principle of treaty anarchy under the false façade of a rule of law.—LLEWELLYN PFANKUCHEN.

In *The Saar Struggle* (Macmillan Co., pp. xiv, 191), Michael T. Florinsky has temperately summarized the abnormal situation of that territory up to the eve of the plebiscite of January 13, 1935. He has found no justification for the creation of the Saar régime in 1920, and little for the attitude of either France or Germany toward the Basin. The governing commission of the League of Nations is weighed and found wanting, partly by reason of its unavoidably ungrateful task and partly because of its first chairman, Victor Rault, who was a paragon of French nationalistic ineptitude from 1920 to 1926. But these disabilities aside and duly discounted, the Saar population, its condition and self-control, are the main theme of a volume which leaves the reader with a genuine feeling of admiration for a people who, with only recent propagandist exceptions, have exhibited a remarkable sense of proportion and of toleration under an artificial governmental structure. The justice of choosing its own allegiance is almost the only boon which the League Council, functioning under the Treaty of Versailles, can extend to the Saar in the spirit and terms of its own Covenant. That the Council would live up to that opportunity was becoming clear when Mr. Florinsky wrote in October. His essentially topical volume is a good account of this fifteen-year aberration of the peace; but it relegates the answer of the problem to a second edition or to the newspaper files.—DENYS P. MYERS.

The latest of the "World Affairs" pamphlets, published jointly by the Foreign Policy Association and the World Peace Foundation, is an ex-

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cellent résumé of the Far Eastern situation entitled *Conflicts of Policy in the Far East* (pp. 56). The author, Professor George H. Blakeslee, is well known for his writings on problems of the Pacific area and for his work as counselor to the Lytton Commission. The pamphlet is designed primarily for the layman who desires a concise but penetrating survey of the entire field. In attempting this, Professor Blakeslee has succeeded admirably. He has given due importance to economic and social, as well as political, factors, and his judgments, which in many cases reiterate the conclusions of the Lytton Commission, are invariably incisive and temperate. The pamphlet is unquestionably the best brief discussion of the Far East that is available.—G. L. KIRK.

The Geneva Research Center has continued during the past year its periodic publication of special analyses of current problems in international relations. Among recent studies are: "The Soviet Union and the League of Nations, 1919–1933," by Kathryn W. Davis; "The Chaco Dispute," by Mary Mattison and Russell Cooper; "The Chaco Arms Embargo," by Mary Mattison; "Duties of Non-Recognition in Practice, 1775–1934," by Roland H. Sharp; and "The League of Nations and Other International Organization," by Pitman B. Potter.

POLITICAL THEORY AND MISCELLANEOUS

Publication in the near future of an English translation of Vilfredo Pareto's great sociological treatise has now been promised. For years, American social scientists have been told of the thaumaturgic virtues of his system. First came tantalizing references in the footnotes of some of our more recondite colleagues; then magazine articles; then graduate seminars "on Pareto;" and now *An Introduction to Pareto: His Sociology* (Alfred A. Knopf, pp. xiii, 299, vi) by two enthusiastic disciples, George C. Homans and Charles P. Curtis, Jr. "The great importance of the *Sociologie Generale*," they write, "is that it presents a well-developed theory of the non-logical actions of men." It is most appropriate that Pareto should be presented to his American audience through what we may hope will prove a fruitful utilization of Paretian precept. At any rate, the authors cannot be blamed should the campaign of myth-making fail. Modestly offered to incite readers to seek out Pareto himself, their book is written in a popular and sprightly style. Wisely, too, modern illustrations have been substituted for the classical examples employed by the master. And the authors are in earnest. "The historians and social scientists . . . have failed to describe recent happenings in any important way, because they have been unable to set up any broad theory of the non-logical actions of men, the most important element determining the form of society." Pareto, we are told, is the great exception. Only a portion of Pareto's treatise—that dealing particularly with the con-

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cepts of "residues" and "derivations"—is here presented. For those unwilling to resort to Pareto himself, it is unfortunate that the authors do not include a summary of his doctrine of the élite. But within its limits, the volume is an understandable and provocative introduction, whose purpose is promoted by the inclusion of an appendix containing Pareto's own statement, in 1917, of his endeavor "to seek experimental reality by the application to the social sciences of the methods which have proved themselves in chemistry, in astronomy, and in other such sciences."—ALLAN F. SAUNDERS.

A significant cause of despotism is the preference for being governed by men rather than morals. It was so in the fifteenth century, and it is again so today. In his *Democracy and Military Power* (Vanguard Press, pp. 313), Silas Bent McKinley points out that contemporary man suffers from a strange weakening of courage when confronted with the emergence of Fascism: "there is a sort of hunger for absolutism, a weak longing to be directed." In part, the explanation for this may be that the taste for adventure and imagination has taken the place of discipline and reason—a process aided by economic prosperity. This craving is a disease of democracy. Mr. McKinley, however, finds the explanation in a foreshadowing of military defeat for democracy, owing to the substitution of airplanes, tanks, and other highly technical arms, for infantry, as decisive in battle. At least, Mr. McKinley has an arguable case when he asserts that infantry-power is the military basis of any democratic régime, whereas "the airplane is an undemocratic instrument of war." The thesis is neat and interesting. The study of the *nexus* between politics and power is crucial. Mr. McKinley must yet reflect that if Prince Rupert had the cavalry, Cromwell had the artillery; and that it is Hitler and not von Schleicher, with his Reichswehr, who has achieved power in Germany. It is still the man of determination, democrat or Fascist, who will put his hand on the keys of power—but he requires the aid or neutrality of the military technician. The vital moral for democracy is to watch the personnel and organization of the technical posts—to have, let us say, an international air force as a check on chauvinist adventurers. Mr. McKinley's book is addressed to the democrat: his last chapter should be reprinted in some popular and easily accessible form. This is an interesting book on a most important, but too long neglected, subject.—G. E. G. CATLIN.

In Bertrand Russell's *Freedom Versus Organization* (W. W. Norton and Co., pp. viii, 471) is traced the political history of a significant century in Western civilization. It began in 1814, after Waterloo. It intended not to die, having the secret of life. But it did die—in 1914. So at least thinks Russell, and so "die-hards" do not think. Sufficient reason for

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its death is pronounced by Russell to be economic nationalism. Three causes are studied as important in determining political change, viz., economic technique, political theory, and important individuals, e.g., Bismarck. The rapid development of economic technique promoted organization and increased the power of those in political and economic command. Political theory as represented by Liberalism and Philosophical Radicalism grew not nearly so fast: it stood for freedom and doubtless achieved its implementation when industrialism was young, but it was an anachronism by the end of the century. Even more, by its fear of government, it pitifully gave arms to the enemy. Such is the story of the triumph of organization. But it was not this *per se* that spelled eventual disaster. In fact, Russell seems to applaud this victory, in any case to view it as a necessary consequence of developed economic technique. The engine of destruction was not organization as such, but the economic nationalism to which it trended—against this trend, incidentally, the Socialist wing of Radicalism fought bitterly, but helplessly, enfeebled by its too narrow construction of man as solely economic. Thus emerges, for Western civilization, the secret of everlasting life, viz., internationalism. Wittily, even venomously, epithethical, Russell has achieved an intelligible, always interesting, sometimes exciting, and probably to be popular book. It is just possible that it may still be read twenty years hence.—L. M. Pape.

Contemporary Problems in the United States (Harcourt, Brace and Co., pp. 516), by Horace Taylor and associates, is a compilation of readings for the first term of the freshman course in current economic problems at Columbia University. The present volume deals with the economic aspects, and is to be supplemented by a second one for the following term, to deal with governmental phases. The main subject for the present year is economic security. The editors have chosen selections on money and credit, international economic relations, business structure, agriculture, and labor. Except in the section on labor, an effort has been made to present several viewpoints and to include both scientific and popular presentations. The purpose of such readings, like that of the course itself, is to stimulate the student's interest, in the hope that his appetite may be whetted to pursue some of the subjects touched upon by boring in more deeply in later courses. No attempt at thoroughness has therefore been made, but the compilers have sought first, last, and all the time to stir up interest. For this purpose, the selections chosen are naturally of unequal value. There are graphs and charts of prices, foreign trade, and production alongside of the conventional and popular denunciation of the bankers. It must be conceded that the valuable, substantial, and well-documented selections are less interesting than the

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emotional and denunciatory ones. Dr. Taylor and his associates are to be congratulated upon having gathered so much profitable material over a broad range of subjects. Their compilation offers one answer to a problem which has arisen in many colleges—What to do with the introductory course in economics? Their reply is: Select some *one* general problem and group around it a broad list of readings with the chief objective of interest.—JAMES T. YOUNG.

Harvard Legal Essays; Written in Honor of and Presented to Joseph Henry Beale and Samuel Williston (Harvard University Press, pp. xviii, 553), by members of the faculty of the Harvard Law School, constitutes a well-deserved tribute to the two senior members of that faculty. The essays in a volume of this character necessarily deal with diverse legal subjects, many of which are only of incidental interest to students of government. The political scientist will, however, be interested in essays by E. Merrick Dodd, Jr., on the first half-century of statutory regulation of business corporations in Massachusetts; Manley O. Hudson, on the law applicable by the Permanent Court of International Justice; James M. Landis, on statutes and the sources of law; Edward M. Morgan, on federal constitutional limitations upon presumptions created by state legislation; Roscoe Pound, on twentieth-century ideas as to the end of law; and Joseph Redlich, on sovereignty, democracy, and the rights of minorities. Of special value are the contributions of Professors Landis and Morgan. The use of statutory presumptions has come to be of substantial importance in the enforcement of the law, and Professor Morgan's interesting analysis may well be read along with the somewhat broader treatment of the subject by Professor Brosman in 5 *Tulane Law Review*, 17 (1930).—W. F. DODD.

Cases on Labor Law (Chicago: Foundation Press, pp. xiv, 718), by James M. Landis, is a splendidly edited collection of legislative and judicial source material up to August, 1934, including several decisions of governmental labor boards. The volume centers on "the element of concerted effort as distinguished from individual action," which, as the author declares, "dominates the field," and presses for consideration by law students. In keeping with this thesis, the book does not concern itself with what is often called social legislation. Nor does it give space to the law of trade union organization. The selection of material within the author's field is excellent and annotations are full, accurate, and stimulating. While the approach is primarily legal, the volume's usefulness will reach beyond law schools. No better summary of the law relating to labor combinations from the Ordinance of Laborers of 1349 can be found than is contained in Professor Landis's historical introduction.—W. G. RICE, JR.

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The thesis of the economic basis of politics receives ample support from Ralph G. Lounsbury's *The British Fishery at Newfoundland, 1634-1763* (Yale University Press, pp. viii, 398), an unusually careful, scholarly, well documented study. Government at Newfoundland took form under the pressure of two hostile groups: the fishermen of western England, who bitterly opposed a colony at the island, and a group of London merchants in alliance with settlers there who desired a permanent colonial government. Political developments followed economic forces. Prior to 1763, the West Countrymen dominated the Newfoundland fishery through their fleets from England, and during this time the island had no settled government, and jurisdiction was exercised mainly by admirals of the West Country fleets. Between 1675 and 1729, the West Country fishery declined and the fishery at the plantation grew more important; accordingly, the crown assumed a slight measure of authority through the agency of the commanders of naval convoys sent to the island. After 1729, when the plantation fishery was supreme, the rudiments of civil government for the island were provided, and royal governors were appointed, although the settlers were given neither council nor assembly. Scattered settlements, the poverty of the planters, and the unwillingness of England to spend money on this island government prior to 1763 retarded the progress of effective control.—CURTIS NETTELS.

The long-existing need for a compact but authoritative account of Indian history has at last been met by the publication of the *Cambridge Shorter History of India* (Macmillan, pp. xix, 970). Prepared by three experts, two of whom were editors of the six-volume *Cambridge History of India*, the volume is something more than a mere condensation of that work. It provides an extremely well-knit and scholarly survey of the whole course of Indian history from the beginnings down to the adoption of the Montagu-Chelmsford reforms. The book is not brilliantly written, and it seems excessively concerned with intricate details of political history, but it is, none the less, a reference work of considerable value.

Having compiled valuable data, drawn from the official publications of the Polish government, the periodical publications issued by the Polish Central Bureau of Statistics, Polish and foreign literature, publications of the League of Nations, and numerous German monographs and other contributions to economic journals, Dr. Paul F. Douglass skilfully traces, in *The Economic Independence of Poland* (The Ruter Press, pp. 134), the development of Poland's economic life, and analyzes the adjustments of trade to political objectives. All in all, we have here a good example of how post-war nationalism is playing havoc with economics. The book is a

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good descriptive economic geography of the country with which it deals, and will be convenient for reference.—JOSEPH S. ROUCEK.

Among the most recent of the counterblasts called out by Nazi "Aryan" ideology is *Races, Nations, and Jews* (Bloch, pp. x, 170) by Joseph Tenenbaum. The author, long a leader in American Jewry, makes a vigorous indictment of Nazi policy and pays his respects in no uncertain terms to Jews who believe in a program of assimilation. The Jews, he asserts, actually constitute a nation, and "Jewish nationalism can serve as a good example of what nationalism is or ought to be." Since the book is an impassioned plea rather than a scientific analysis, it is hardly necessary to call attention to its decided lack of objectivity.

The addition of Fred A. Shannon's *Economic History of the People of the United States* (Macmillan Co., pp. xi, 942) to the list of similar texts is justified by the author's arrangement and interpretation of his material. He devotes over half of his space to his last two sections: "The Rise of Capitalism, 1865–1900" and "The Capitalistic Age, 1900–1933"; and in these, as well as in earlier sections, he tends to emphasize the social significance of such problems as divergent sectional interests, the position of the farmer, the position of the laborer, monopolization, the tariff, etc. The book is well illustrated with maps and tables, and includes a useful critical bibliography.—JOHN D. LEWIS.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

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University of Illinois

AMERICAN GOVERNMENT AND PUBLIC LAW.

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GOVERNMENT PUBLICATIONS

MILES O. PRICE

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AMERICAN

UNITED STATES

Marine corps, Historical section

One hundred eighty landings of United States marines, 1800–1934. A brief history in two parts . . . by Captain Harry Alanson Ellsworth, U. S. Marine corps, Officer in charge, Historical section. First edition 1934. 163 p. mimeographed.

This document is proof that U. S. documents which are mimeographed instead of printed should not be scorned just for that reason. As a matter of fact, much of the most useful information disseminated by the Government is now issued in this form, on account of necessary reductions in printing appropriations. This is particularly true in the case of periodicals. Captain Ellsworth has listed one hundred eighty landings of the Marines, covering the years 1800 to 1934, including not only landings for punitive or warlike, but also those for ceremonial, purposes. These are arranged alphabetically under the name of the country in which the landing was made, and chronologically thereunder. Starting with a brief statement of the background facts leading up to the landing, a bare statement of the incidents of the landing is given, including detailed statistics, the name of the officer in charge, and of the vessel from which the landing was made. References to sources include the reports of the Secretary of the Navy; Navy, Marine and State department archives; and the logs of war vessels. For the student of our foreign relations, these statements of fact should save a great deal of valuable time which must otherwise be spent digging into voluminous records, many of which are inaccessible to the average research worker.

Congress

Congressional reports of "hearings" contain a great deal of chaff, contributed by publicity seekers, crack-pots, and special pleaders, but also, some of them, such a quantity of worth-while material in the form of documents and briefs and testimony that they should be examined. Some of these, such as those of the Senate banking and currency committee, 73d Congress, 2d session, on stock exchange practices, print the testimony (over 8,200 pages in this case), records, and recommendations which led to important changes in our laws regulating business. Others, as those before the House special committee on un-American activities, investigating Nazi propaganda activities, present just as voluminously the testimony of those who believe that inimical interests from without are trying to change our form of government.

STATE AND TERRITORIAL

CALIFORNIA

University of California, Berkeley. Bureau of public administration. Bibliography of crime and criminal justice, 1927–1931. Compiled by Dorothy Campbell Culver, research assistant. New York, H. W. Wilson Co., 1934. 413 p.

This work, which supplements Kuhlman's guide to material on crime and criminal justice, is international in scope and includes materials published or in manu-

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script during the period 1927 to 1931, inclusive. While the classification is based on Kuhlman, many modifications and expansions have been necessary. A detailed subject and author index helps to make the material accessible, even though each item is entered only once. There are occasional annotations, informative rather than critical. The "List of Periodical Abbreviations" lists about 1,500 serial publications in the field covered, and in allied fields. There is a section of general bibliographies of the subject, and under the appropriate hearings are found special bibliographies. The value of the work to the research worker is obvious.

NEW YORK

Temporary emergency relief administration. Emergency relief in the state of New York. Statutes, regulations, and opinions and interpretations of counsel. 2d. ed. Albany, November, 1934. 240 p.

While a manual for relief officers, this document might well serve as an example of constitutional "law in action." It covers, with statute, regulation, and opinion, every aspect of official relief work; the administrative problems; relations of counties and cities; veteran and old age relief; labor questions; municipal problems as to charter provisions; officials, etc.; borrowing powers of counties, towns, and villages; diversion of town highway moneys, etc. In addition, it gives in full or summarizes all New York and federal relief acts. There is a 12-page index.

FOREIGN AND INTERNATIONAL

GREAT BRITAIN

Ministry of labour. Report on collective agreements between employers and workpeople in Great Britain and Northern Ireland. Vol. I. London, H. M. S. O., 1934. 454 p.

This lists in detail all collective agreements in certain fields, giving the content, commenting thereon, and frequently discussing the constitutional aspects. It is a pertinent document, in view of N.R.A. sec. 7a.

SEVENTH INTERNATIONAL CONFERENCE OF AMERICAN STATES. MONTEVIDEO, 1933

First, second, and eighth committees: Organization of peace; Problems of international law; International conferences of American states. Minutes and antecedents, 204 p. (The document bears no imprint.)

In addition to a report of the minutes of all meetings, the documents (antecedents) include a peace code, by Alfonso Reyes and Manuel Sierra, of Mexico; reports of sub-committees; telegrams received from American presidents by the chairman, relating to the Chaco conflict; methods of codification of international law, project for resolution; reports on rights and duties of states, interpretation of treaties, international responsibility of the state with special reference to the responsibility for denial of justice, political asylum, extradition, nationality, industrial and agricultural use of international rivers; use of hydraulic forces which are of interest to several states; and a statement of results of the international conferences of American states. The document is of special interest to students of the technique of the setting up and operation of international conferences.

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